THE PRESIDENT OF THE UNITED STATES AND HIS CABINET

Reading from left to right around the table are President Woodrow Wilson; Secretaries, McAdoo, McReynolds, Daniels, Houston, Wilson, Redfield, Lane, Burleson, Garrison and Bryan

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A Systematic Course of Reading in Preparation for the Larger Citizenship

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THE CIVICS SOCIETY
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VOLUME VI

Practical Politics

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VOLUME VI

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For those who wish to read more extensively, the following works are especially recommended:

Author	*Title of Work*
Israel Ward Andrews	New Manual of the Constitution of the United States
Roscoe Lewis Ashley	The American Federal State
Simeon E. Baldwin	The American Judiciary
Charles A. Beard	American Government and Politics
Charles A. Beard	Readings in American Government and Politics
Beard and Shultz	Documents on the Initiative, Referendum, and Recall
Robert C. Brooks	Corruption in American Politics and Life
James Bryce	The American Commonwealth
Richard S. Childs	Short Ballot Principles
John R. Commons	Proportional Representation
Thomas M. Cooley	Principles of Constitutional Law
F. W. Dallinger	Nominations for Elective Offices
John A. Fairlie	The National Administration of the United States
Finley and Sanderson	The American Executive and Executive Methods
Henry J. Ford	The Rise and Growth of American Politics
Paul L. Ford, Editor	The Federalist
John W. Foster	American Diplomacy
John W. Foster	The Practice of Diplomacy
Robert H. Fuller	Government by the People
James W. Garner	Government in the United States
Frank J. Goodnow	Principles of Administrative Law in the United States
Frank J. Goodnow	Politics and Administration
William B. Guitteau	Government and Politics in the United States
Benjamin Harrison	This Country of Ours
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Jeremiah W. Jenks	Principles of Politics
Chester Lloyd Jones	Readings on Parties and Elections
Samuel W. McCall	The Business of Congress
Jesse Macy	Party Organizations and Machinery
Charles E. Merriam	Primary Elections
Ernst C. Meyer	Nominating Systems
William B. Munro	The Initiative, Referendum, and Recall
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M. Ostrogorski	Democracy and Party Machinery
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Paul S. Reinsch	Readings in American Federal Government
Paul S. Reinsch	Readings in State Government
Albert Shaw	Political Problems of American Development
J. Allen Smith	The Spirit of American Government
Delos F. Wilcox	Government by All the People
Woodrow Wilson	Constitutional Government in the United States
J. A. Woodburn	Political Parties and Party Problems in the United States
Frederick Van Dyne	Our Foreign Service—The A B C of American Diplomacy

PART V

Federal Government

CHAPTER I

THE FEDERAL CONSTITUTION

AT the apex of the American system is the federal constitution and the government of the United States. The American federal constitution is one of the great written documents of history, and its adoption marked the most advanced step that had been taken in the progress of representative government. Its influence upon the governments of the world has been profound, unsurpassed by any similar document, unless it be, perhaps, that great charter of English liberty, the Magna Charta of King John. But there was long a prevalent misconception concerning both its formation and the creation of the union. It was thought that the fathers there and then created a great nation and out of their wisdom formulated a new and republican form of government. From what has already been said in the previous volumes regarding the precedents and origins of the various branches of

government in the United States, it will be apparent that the constitution was not a new creation, or original with those who framed it, but that the British constitution, the colonial charters, colonial state papers, and even the state constitutions themselves, furnished precedents for most of its provisions, and that several attempts at union had been made before the American federal state was formed.

(1) Attempts at Union. There were in the colonies from the beginning conditions which tended toward union. Practically all of the colonists were of English descent; they spoke the same language and with the exception of the Catholics of Maryland belonged to the Protestant faith. Their institutions were English and they were governed by the English common law. They claimed as their birthright all the privileges of Englishmen. It was therefore easy for the people of one colony to understand the people of another not only in language and religion but in political ideas as well. But on the other hand, there were conditions which made union difficult, difficulties which it took a century to overcome. The geographical situation of the colonies was not conducive to the establishment of an effective union. Communication was difficult and dangerous, and the industrial interests of the colonies were divided. Those of the North centered around shipbuilding, while those of the South were largely agricultural. Each colony was politically separate and the feeling of local independence was strong. But as has often been the

case in the confederation of states, military necessity compelled the colonies at times to unite in common defense. The strongest influence working toward the formation of a federal state was the need of defense against a common enemy — first the Indians, then the French, and finally the fiscal policy of the mother country.

The first attempt at union was the New England Confederation which was formed in 1643 and which continued in existence for forty years. This was a league of four New England colonies for the purpose of defense against the Indians, the return of fugitive servants, and the extradition of criminals. Its affairs were managed by a board composed of two representatives from each colony. It was dissolved when the first Massachusetts government was overthrown, but not until it had accustomed the colonists to united action and the value of combined strength. In 1754 another attempt at union was made. At the Albany Congress composed of representatives from seven colonies, which was called just as the final struggle with the French was approaching, Benjamin Franklin submitted his famous plan for a permanent federal union. Although Franklin's plan was unanimously adopted by the congress, it was rejected both by the colonies and by the English government — by the colonies because they thought it gave too much power to the crown, and by the crown because it was too democratic. Then came one of the most important steps in developing the

spirit of union, the Stamp Act Congress of 1765 which was attended by the delegates of nine colonies. This congress drew up an address to the king demanding the repeal of the stamp acts, and laying down the great principle of no taxation without representation. From this time on coöperation between the colonies became habitual. Following the passage of the various revenue acts including the tax on tea, committees of correspondence were formed in the various colonies to resist the aggressions of Great Britian, and in 1774 the First Continental Congress was called. This was the beginning of an actual federal union. All colonies except Georgia were represented. The Second Continental Congress met the following year and continued to direct the common affairs of the colonies during the war until the establishment of the Confederation in 1781.[1] But even then the union was not complete. The form of government, as we shall see, under the Articles of Confederation was rather in the nature of a league than a federal state, and it was not until the constitutional convention had completed its work that a real state was formed. And even then it took the Civil War to establish its supremacy. Thus the creation of the American Union was the development of over a century.

(2) The Articles of Confederation. On the same day that the Continental Congress appointed a committee to draw up the Declaration of Independence, it appointed a committee to draw up a plan of

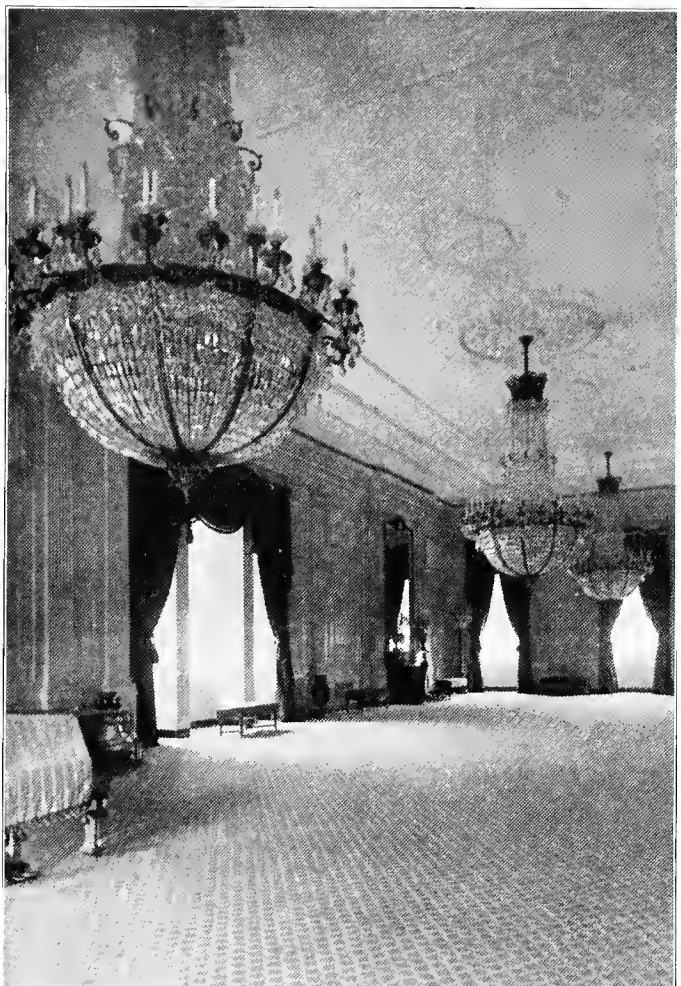
confederation. A month later this committee made its report and submitted Articles of Confederation which were to serve as the constitution of the new league of friendship which was to be formed. The report was accepted by the congress and during the years 1778 and 1779 all the states except Maryland ratified the Articles. The Articles were to go into effect when signed by all of the states, but Maryland refused to give its approval until all those states claiming lands northwest of the Ohio river — Virginia, New York, Massachusetts, and Connecticut — should surrender them to the nation for the benefit of all of the states. When finally this was done, Maryland ratified the Articles, and the Confederation of states became complete.

This new government, as has already been pointed out, was a league rather than a federal government. The states entered into "a firm league of friendship with each other," as the Articles declared, "for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever." But each state "retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right" which was not delegated to "the United States in Congress assembled." Some powers were surrendered to the central government. Thus the states

could not send ambassadors or make treaties with foreign nations, keep ships of war in times of peace, or engage in war, or issue letters of marque and reprisal. These could be done only by the central government. Congress was also given certain other powers. It could regulate the alloy and value of coins, fix standards of weights and measures, establish post offices, regulate trade with the Indians, declare war and make peace, and settle disputes between states when petitioned to do so. It was unlike the Continental Congress in that it was a legally constituted body, but its general powers were limited, the great residuum of powers being retained by the states.

Under the Articles of Confederation, legislative powers were vested in a congress which consisted of a single house. It was composed of not less than two nor more than seven representatives from each state, elected by the legislature for one year, but subject to recall at any time. Each state had but one vote, determined by the majority of its representatives, and these representatives were paid by the state governments. Each state thus kept a very close control upon its representatives in congress. No provision was made for an executive department or for a federal judiciary except for a court of appeals to hear cases involving captures on the high seas in times of war. All matters not handled by congress were to be taken care of by the individual states.[2]

(3) Defects of the Articles of Confederation. A



THE FAMOUS EAST ROOM OF THE WHITE HOUSE
Where many State and Public Receptions of the President are held

few years experience under the Articles of Confederation served to demonstrate that the government which was established was fatally defective both in power and organization. Congress was powerless to enforce its laws and regulations. It could act on the individual only through the states, and it had no power to coerce the states. It could make treaties but could not compel the states to live up to their provisions; it could declare war, but could not enlist soldiers. Congress had no power to levy taxes. It could apportion the expenses and make requisitions upon the states, but it could not compel the states to contribute their quota. It had to maintain diplomatic representatives abroad, pay interest on its loans, build ships of war, and maintain the army, but could not levy a dollar to meet these obligations. Of over $15,000,000 apportioned among the states less than $2,000,000 was actually received. Furthermore, congress had no power to regulate commerce either with foreign countries or between the various states. Each state taxed imports, had its own tariff system, and its own customhouses, and exploited commerce for purposes of revenue. New York taxed imports from New Jersey and Connecticut, and New Jersey and Connecticut retaliated by taxing imports from New York. Within the states themselves industrial and commercial disorder was prevalent everywhere but the central government was powerless to interfere. All the states were issuing worthless paper money, many were passing laws vio-

lating the obligation of contracts, and in several the social conditions were fast approaching anarchy. In Massachusetts, for instance, an attempt to collect debts led to Shays' Rebellion. In all states the social and economic conditions as well as the political conditions were becoming intolerable.

Not only were the powers of the confederation government inadequate, but the organization was ill adapted to exercise the powers which it did possess. The lack of an executive to enforce the laws and to carry on foreign affairs, of a supreme court to interpret the Articles and to sit in judgment between the states, and the concentration of all governmental powers in a single legislative body were constitutional defects which doomed the new government to failure from the beginning. The absolute equality of all states large and small in congress, the short term of the delegates together with the fact that they were paid by the states, could only serve three out of any six years, and could be recalled at any time, the provision that required the assent of nine states to all important legislation, and finally the requirement that the assent of every state must be secured to amend the Articles of Confederation were all structural defects which hastened that failure.[3]

(4) The Annapolis Convention. These defects were recognized and various attempts were made to remedy them by amending the Articles, but in each case one or more states defeated the amendments. Twice

amendments were offered giving congress the power to levy duties on imports, but Rhode Island defeated one and New York the other. In 1784 congress submitted an amendment giving it certain powers to regulate commerce, but it was defeated by the refusal of several states. By 1786 affairs had reached a climax. Washington, Hamilton, Franklin, and the other great political leaders had become convinced that the Articles of Confederation must be revised or the central government would break down entirely. At the instance of the legislature of Virginia a convention of delegates was called at Annapolis, Maryland, for the purpose of considering the question of trade regulations between the various states. But this convention was attended by delegates from only five states — New York, New Jersey, Pennsylvania, Delaware, and Virginia. This being not even a majority of the states, the convention decided to adjourn and to call a convention for the purpose of revising the Articles of Confederation. Accordingly a resolution was passed calling on all of the states to send delegates to a constitutional convention to be held in Philadelphia in May, 1787, to consider the question of a general revision of the Articles of Confederation.

(5) The Constitutional Convention. The constitutional convention met on May 25th, and was attended by delegates from every state except Rhode Island, Rhode Island being fairly well satisfied with the confederation as it was, since it enjoyed commercial pri-

vileges which it could not hope to retain if the power to regulate commerce were given to congress. In all, fifty-five delegates were in attendance. Among these delegates were the ablest statesmen of the day — Washington, Hamilton, Franklin, Madison, Randolph, Gouverneur Morris, Elbridge Gerry, Charles Pinckney, and a great many others whose names are familiar in history. Many of them were then members of the confederation congress, and all had had extensive legislative experience. Franklin had attended the Albany Congress in 1754, several had been members of the Stamp Act Congress of 1765, nine had signed the Declaration of Independence, and nearly all had served in their state legislatures. The convention organized by electing George Washington president and William Jackson secretary, and its sessions were held behind closed doors.[4]

The purpose of the constitutional convention as stated in the Hamilton resolution adopted at the Annapolis convention was "for the sole and express purpose of revising the Articles of Confederation" and not the creation of a new constitution. But no sooner had the convention convened than Randolph presented the so-called "Virginia Plan" which had been prepared by James Madison. This plan provided for the creation of a strong and effective central government, which should act not only upon the states, but upon individuals directly. It provided for separate legislative, executive, and judicial departments, and gave the national govern-

ment power over all matters with which individual states were incompetent to deal. Congress was also given a veto power over state laws inconsistent with the national constitution or the treaties of the national government. In other words, the Virginia plan abandoned the Articles of Confederation and proposed a new constitution and a new form of government. It was supported by all of the larger states because they were given only equal representation with the smaller states in the confederation congress, while this plan provided for proportional representation according to population or the amount of contributions paid.

The delegates from the smaller states, however, were satisfied with the confederation government and were opposed to the establishment of such a government. They wished merely to revise the Articles of Confederation and to give to congress such additional powers as experience had shown necessary. William Patterson of New Jersey therefore submitted the "New Jersey Plan." This plan provided for the retention of the principal features of the existing system, but enlarged the powers of congress to cover the regulation of commerce, and the raising of revenue, and provided for the establishment of a national executive and a system of national courts. This was all, in the judgment of the smaller states, that was necessary to remove the existing evils. Two other plans were submitted, but the Virginia plan contributed most to the formulation of the new constitution.

(6) Constitutional Compromises. After the presentation of these various plans, the trying work of the convention began. The interests of the large and small states were all but irreconcilably opposed to each other; they could only be overcome by a series of compromises. Practically all of the delegates were convinced that congress should be composed of two houses and that each state should be represented in both. But the sentation in the national legislature as a state with half large states demanded proportional representation. Virginia claimed that it was unjust for a state with only a few thousand population to be given the same representation in the national legislature as a state with half a million population. Georgia on the other hand claimed that the states were sovereign political units and entitled to equal representation. The heat and vehemence of the discussion on this point nearly disrupted the convention, but the spirit of compromise finally prevailed, and it was finally agreed that the states should have equal representation in the upper house and proportional representation in the lower house, and that all bills for raising revenue should originate in the lower house.

But having decided upon proportional representation in the lower house, the question immediately arose as to whether or not slaves should be counted in determining the number of representatives. The northern states claimed that slaves were considered property and could not vote in the states where they were held, and

therefore should not be counted as persons, merely to increase representation, any more than horses and cattle should be counted in the North. The southern states, on the other hand, claimed that the slaves added materially to the wealth of the South and should be taken into consideration in determining the number of representatives. Finally this question was also settled by compromise, it being agreed that in determining the population for purposes of representation all of the white population but only three-fifths of the slaves should be counted. It was also agreed that direct taxes should be apportioned among the states in the same way, a compromise in which the South secured an advantage because few direct taxes were ever levied.

Other compromises were also resorted to, to harmonize the conflicting interests of the different states. Congress was given power to regulate commerce, but was forbidden to interfere with the importation of slaves prior to the year 1808, and the taxation of exports by states was prohibited.[5] By another compromise the president was to be elected by the electoral college and his term was fixed at four years. The provision for the veto of state laws was omitted, but a clause was inserted declaring the constitution and laws of the United States the supreme law of the land "anything in the constitution or laws of any state to the contrary notwithstanding." Finally the various provisions of the constitution were agreed upon and a committee was appointed to prepare the final draft. This was done and

the constitution was on the 17th day of September, 1787, signed by thirty-nine delegates, and George Washington as president of the convention was authorized to transmit it to congress with the recommendation that it be submitted to state conventions for ratification.

(7) Ratification of the Constitution. It is significant that the constitution was ratified by conventions called for that purpose and not by the state legislatures. One state legislature cannot bind the hands of future legislatures, and consequently the legislature of any state might have later rescinded its ratification. But being ratified by conventions of delegates in each state, selected for that specific purpose, the ratification of the constitution was put beyond the reach of any future legislature, and the federal constitution became an enactment of the people of the United States. Delaware was the first to accept the new constitution and by 1789 all states except Rhode Island and North Carolina had ratified it, and the new government went into effect on the 4th of March, 1789.

(8) Amendment of the Constitution. One of the great weaknesses of the Articles of Confederation was the fact that the assent of every state was necessary for any amendment. The amendment of the new constitution was therefore made easier. Two methods of both proposing and adopting amendments to the federal constitution are provided. Two-thirds of both houses of congress may propose amendments, or upon the

application of two-thirds of the legislatures of the states congress must call a convention for the purpose of proposing amendments. These amendments may be ratified by the legislatures of three-fourths of the states or by conventions called for that purpose in three-fourths of the states, accordingly as congress may direct. The common method is for congress to propose the amendments and the state legislatures to ratify them. The first ten amendments were adopted immediately after the adoption of the constitution in fulfillment of promises conditional upon its adoption by several states, and embody a bill of rights, but since that time the amendment of the constitution has been a difficult matter and has been accomplished only under unusual conditions such as those during and immediately after the Civil War, when the thirteenth, fourteenth, and fifteenth amendments were passed. Although hundreds of amendments have been offered to the constitution since 1870, only two have been submitted and ratified — those providing for a federal income tax and for the popular election of United States senators.

(9) Development of the Constitution. But although the constitution has been amended but few times, it has been developed and expanded in many ways. It has been interpreted and expanded by judicial interpretation.[6] Its powers of regulation have been greatly enlarged to meet the demands of present day economic conditions. The courts have endeavored to administer

the spirit of the document rather than the letter. Again, it has been developed by usage, as in the case of the election of president. We virtually have a popular election of president although the constitution provides for election by the electoral college. Usage has also placed a limitation on the number of terms he can serve. The third term has been rejected by custom although permitted by the constitution. And finally[7] the constitution has been modified by political practices, but this will be taken up in Part II when we come to study party organization and management.[8]

SUPPLEMENTARY READING

CHAPTER I

The Federal Constitution

[1] **The Continental Congress.** — In 1774, after parliament had passed an act overthrowing the government of Massachusetts, along with other offensive measures, a congress assembled in September at Philadelphia, the city most centrally situated as well as the largest. If the remonstrances adopted at this congress had been heeded by the British government, and peace had followed, this congress would probably have been as temporary an affair as its predecessors; people would probably have waited until overtaken by some other emergency. But inasmuch as war followed, the congress assembled again in May, 1775, and thereafter became practically a permanent institution until it died of old age with the year 1788.

This congress was called "continental" to distinguish it from the "provincial congresses" held in several of the colonies at about the same time. The thirteen colonies were indeed but a narrow strip on the edge of a vast and in large part unexplored continent, but the word "continental" was convenient for distinguishing between the whole confederacy and its several members.

The Continental Congress began to exercise a certain amount of directive authority from the time of its first meeting in 1774. Such authority as it had arose simply from the fact that it represented an agreement on the part of the several governments to pursue a certain line of policy. It was a diplomatic and executive, but scarcely yet a legislative body. Nevertheless it was the visible symbol of a kind of union between the states. There never was a time when any one of the original states exercised

singly the full powers of sovereignty. Not one of them was ever a small sovereign state like Denmark or Portugal. As they acted together under the common direction of the British government in 1759, the year of Quebec, so they acted together under the common direction of that revolutionary body, the Continental Congress, in 1775, the year of Bunker Hill. In that year a "continental army" was organized in the name of the "United Colonies." In the following year, when independence was declared, it was done by the concerted action of all the colonies; and at the same time a committee was appointed by Congress to draw up a written constitution. This constitution, known as the "Articles of Confederation," was submitted to Congress in the autumn of 1777, and was sent to the several states to be ratified. A unanimous ratification was necessary, and it was not until March, 1781, that unanimity was secured and the articles adopted.

Meanwhile the Revolutionary War had advanced into its last stages, having been carried on from the outset under the general direction of the Continental Congress. When reading about this period of our history, the student must be careful not to be misled by the name "congress" into reasoning as if there were any resemblance whatever between that body and the congress which was created by our Federal Constitution. The Continental Congress was not the parent of our Federal Congress; the former died without offspring, and the latter had a very different origin, as we shall soon see. The former simply bequeathed to the latter a name, that was all.

The Continental Congress was an assembly of delegates from the thirteen states, which from 1774 to 1783 held its sessions at Philadelphia. It owned no federal property, not even the house in which it assembled, and after it had been turned out of doors by a mob of drunken soldiers in June, 1783, it flitted about from place to place, sitting now at Trenton, now at Annapolis, and finally at New York. Each state sent to it as many delegates as it chose, though after the adoption of the articles no state could send less than two or more than seven. Each state had one vote, and it took nine votes, or two thirds of the whole, to carry any measure of importance. One of the delegates was chosen president or chairman of the congress, and this position was one of

great dignity and considerable influence, but it was not essentially different from the position of any of the other delegates. There were no distinct executive officers. Important executive matters were at first assigned to committees, such as the Finance Committee and the Board of War, though at the most trying time the finance committee was a committee of one, in the person of Robert Morris, who was commonly called the Financier. The work of the finance committee was chiefly trying to solve the problem of paying bills without spending money, for there was seldom any money to spend. Congress could not tax the people or recruit the army. When it wanted money or troops, it could only ask the state governments for them; and generally it got from a fifth to a fourth part of the troops needed, but of money a far smaller proportion. Sometimes it borrowed money from Holland or France, but often its only resource was to issue paper promises to pay, or the so-called Continental paper money. There were no federal courts, nor marshals to execute federal decrees. Congress might issue orders, but it had no means of compelling obedience.

The Continental Congress was therefore not in the full sense a sovereign body. A government is not really a government until it can impose taxes and thus command the money needful for keeping it in existence. Nevertheless the Congress exercised some of the most indisputable functions of sovereignty. "It declared the independence of the United States; it contracted an offensive and defensive alliance with France; it raised and organized a Continental army; it borrowed large sums of money, and pledged what the lenders understood to be the national credit for their repayment; it issued an inconvertible paper currency, granted letters of marque, and built a navy." Finally it ratified a treaty of peace with Great Britain. So that the Congress was really, in many respects, and in the eyes of the world at large, a sovereign body. Time soon showed that the continued exercise of such powers was not compatible with the absence of the power to tax the people. In truth the situation of the Continental Congress was an illogical situation. In the effort of throwing off the sovereignty of Great Britain, the people of these states were constructing a federal union faster than they realized.

Their theory of the situation did not keep pace with the facts, and their first attempt to embody their theory, in the Articles of Confederation, was not unnaturally a failure.—*John Fiske, "Civil Government in the United States," pp. 204-208.*

[2] **Nature of the Confederation.** — These Articles were the result of the first effort to form a central government. Such a government had indeed existed from the time of the Declaration of Independence, but it was revolutionary, and Congress had governed by the common consent of the people. In attempting to draw the line between the powers to be exercised by the States on the one hand and the general government on the other, State influence was strongly predominant. The colonies had been independent of one another, and the encroachments of Great Britain had led to the revolution. A central government at home would in their view take the place of that of the mother country, and it was not strange that their jealousy of England should in some measure be transferred to their own general government. Little power was confided to Congress, and this related principally to war.

The Articles were as erroneous in theory as they were inefficient in practice. The Declaration of Independence was made in the name of the *people* of the United States. The first sentence refers to them as "one people" that had found it necessary to dissolve the political bands which had connected them with another people, and to assume among the powers of the earth the separate and equal station to which they were entitled. The Constitution speaks the same language: "We, the people of the United States, do ordain and establish this Constitution for the United States of America." But the Articles of Confederation do not purport to come from the people. They were the work of the States. The instrument is styled "Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay," etc. It was drawn up and adopted by Congress, and sent to the States for ratification.—*Israel Ward Andrews, "Manual of the Constitution," pp. 35, 36.*

[3] **Defects of the Confederation.** — Although the Articles of Confederation proved of great value in securing concert of action

among the states in certain matters, the weaknesses of the union which they created and the defects of the governmental machinery provided by them soon proved serious.

The union turned out to be the loosest sort of a league, in which the states for the most part did as they pleased. Each retained its own sovereignty and could not be compelled to perform its obligations as a member of the Confederation. Some of them deliberately violated the treaty of peace with Great Britain, and the Congress was unable to prevent such infractions. Congress being thus powerless to carry out the stipulations of the treaty, Great Britain refused to perform her obligations thereunder. Since no executive department and no courts were created to enforce and apply the laws passed by Congress, the nation had to depend upon the states to carry out its will.

In the organization and procedure of Congress there were serious defects. No member could serve for more than three years in six, and each state paid its own members and might recall them at pleasure. Thus the dependence of the representative upon his state was emphasized and his character as a national representative minimized. Worse than this was the provision that allowed each state, regardless of its population and size, but one vote in Congress. Thus Georgia with a population of only a few thousand souls enjoyed the same power in all matters of national legislation that Virginia did, although the population of Virginia was some sixteen times as great. Still another serious weakness was the rule which required the assent of nine states to pass any important bill, such as those for borrowing or appropriating money, issuing bills of credit, declaring war, entering into treaties, coining money, building war ships, raising military forces, selecting commanders, and the like. As it was frequently impossible to secure the concurrence of so large a proportion of the states, needed legislation was often prevented by the opposition of a few members or by the lack of a quorum. Thus in April, 1783, there were present only twenty-five members from eleven states, nine being represented by only two members each. It would have been possible, therefore, for three members to defeat any important measure.

Not only were the defects in the organization and procedure of Congress of a serious character, but the powers conferred upon it by the Articles of Confederation were so meager that its authority was little more than a shadow and carried little weight. One of the essential powers of government is that of taxation, yet the Congress had no authority to impose a dollar of taxes on any individual in the land. Money was needed to pay the soldiers who were fighting the battles of the country, to pay the salaries and expenses of diplomatic representatives who had been sent to Europe to negotiate treaties and solicit the aid of foreign friends, to pay interest on loans incurred in France and Holland, to defray the cost of building war ships and equipping the army, and to meet the various other expenses which every government must needs incur, yet the government of the Confederation was powerless to raise the necessary funds by taxation. In the absence of all power to levy and collect taxes, Congress adopted the policy of apportioning the national expenses among the states. But no state could be compelled to contribute a dollar toward its quota; some of them in fact contributed little, and most of those which did respond to the appeal of Congress did so grudgingly and tardily. Of the $15,000,000 apportioned among the states between 1781 and 1786 less than $2,000,000 was actually paid in. Often there was not a dollar in the treasury of the Confederation to pay the obligations of the government.

Two attempts were made to amend the Articles of Confederation so as to give Congress power to levy a five per cent tariff duty on imported goods, but since it required the assent of each of the thirteen states to adopt an amendment, the scheme fell through, in both cases on account of the opposition of a single state.

Congress had no power to regulate commerce, either with foreign countries or among the states themselves. This was a serious defect. Each state had its own tariff system and its own customhouses, and collected its own duties on goods brought into its ports from abroad. As each state was anxious to exploit this source of revenue for itself, it naturally framed its tariff regulations and tonnage laws in such a way as to attract foreign commerce to its own ports. And so it was with regard to com-

BUILDING OF THE STATE, WAR AND NAVY DEPARTMENTS, WASHINGTON, D. C.
The center of great Government activity

merce among the states themselves. Each framed its trade regulations with its neighbors according to its own selfish notions and without regard to the general good. The result was continual jealousies, dissensions, and sometimes reprisals and retaliations. New York levied an import duty on certain articles brought in from its less fortunate neighbors, Connecticut and New Jersey, and each in turn retaliated as best it could. For purposes of foreign and interstate commerce, each state was a nation itself, and the Confederation was a nonentity.—*James W. Garner, "Government in the United States," pp. 161-164.*

[4] **Personnel of the Convention.** — It was a truly remarkable assembly of men that gathered in Philadelphia in May, 1787, to undertake the work of reconstructing the American system of government. It is not merely patriotic pride that compels one to assert that never in the history of assemblies has there been a convention of men richer in political experience and in practical knowledge, or endowed with a profounder insight into the springs of human action and the intimate essence of government. It is indeed an astounding fact that at one time so many men skilled in statecraft could be found on the very frontiers of civilization among a population numbering about four million whites. It is no less a cause for admiration that their instrument of government should have survived the trials and crises of a century that saw the wreck of more than a score of paper constitutions. On the memorable roll of that convention were Elbridge Gerry, Rufus King, Roger Sherman, Alexander Hamilton, Oliver Ellsworth, Benjamin Franklin, Robert Morris, Gouverneur Morris, William Paterson, James Wilson, George Washington, Edmund Randolph, James Madison, John Rutledge and the two Pinckneys—to mention only a few whose names have passed indelibly into the records of American history.

All the members had had a practical training in politics. Washington, as commander-in-chief of the revolutionary forces, had learned well the lessons and problems of war, and mastered successfully the no less difficult problems of administration. The two Morrises had distinguished themselves in grappling with financial questions as trying and perplexing as any which states-

men had ever been compelled to face. Seven of the delegates had gained political wisdom as governors of their native states; and no less than twenty-eight had served in Congress either during the Revolution or under the Articles of Confederation. There were men trained in the law, versed in finance, skilled in administration, and learned in the political philosophy of their own and all earlier times. Moreover, they were men destined to continue public service under the government which they had met to construct—Presidents, Vice-Presidents, heads of departments, justices of the Supreme Court, were in that imposing body. They were equal to the great task of constructing a national system strong enough to defend the country on land and sea, pay every dollar of the lawful debt, and afford sufficient guarantees to the rights of private property.—*Charles A. Beard, "American Government and Politics," pp. 44-45.*

[5] **The Regulation of Commerce.** — A third compromise also had its basis in the difference between the occupations and domestic institutions of the North and the South. Commerce and shipbuilding were the chief industries of New England; while at the South, agriculture carried on by slave labor was practically the sole occupation. The commercial States desired regulation of commerce by the national government in order that American commerce and shipping might be protected from foreign discrimination; but certain slaveholding States—especially South Carolina—feared that unless a two-thirds vote was required to pass laws relating to commerce, the national government might tax or even entirely prohibit the slave trade. The South also feared that Congress might tax exports, thus laying a heavy burden upon its agriculture staples. The problem was finally solved by vesting in Congress power to regulate commerce by a majority vote, but forbidding the enactment of any law prohibiting the importation of slaves prior to 1808 (although a per capita tax of ten dollars might be levied upon each slave imported). The taxation of exports by the States or by Congress was absolutely forbidden.—*William B. Guitteau, "Government and Politics in the United States." p. 219.*

[6] **Expansion of the Constitution by Judicial Interpretation.**

—While there is a large and eminently respectable school of thinkers who maintain that the courts do not make law, it nevertheless remains a fact that the Supreme Court of the United States has on several occasions expanded the written instrument under the guise of an interpretation. Indisputable evidence of this fact is offered by the reversals of opinion showing that either in one case or the other the Court had read into the document ideas which it did not contain. Furthermore, the numerous dissenting opinions, often by the considerable minority of four to five, lend the weight of eminent authority to the contention raised in many quarters that certain decisions are not mere applications of the letter and spirit of the Constitution to specific circumstances, but positive additions to the venerable fabric which the convention constructed. This, of course, is controversial ground, but a few illustrations will make clear what is meant by those who maintain, without any intention of adverse criticism, that the Supreme Court *makes* constitutional law from time to time to meet the demands of new circumstances, or to express the opinion of the Court as to what ought to be the law.

A notable instance is the case of Chisholm v. Georgia, mentioned above, in which the Court took jurisdiction over a suit against a state by a citizen. That it was not the intention of the states at the time of the ratification to confer such jurisdiction is evidenced by the general protest which went up against it and the facility with which an amendment was provided. Furthermore, Hamilton in The Federalist had expressed his belief that no such power was given by the Constitution, and the general principles of law up to that time seem to have been contrary to the ruling of the Court; but the Court, desiring to make the Constitution a broadly national instrument, assumed jurisdiction over the suit against Georgia. A more notable case was that of Marbury v. Madison, in which the Court decided for the first time that it had power to declare invalid statutes of Congress which it deemed contrary to the Constitution. Whether the majority in the convention intended to bestow such high prerogative on the federal tribunal is a matter of controversy. Certain it is that some of the members,

notably Hamilton, ascribed such a power to the Court; but no express warrant was conveyed by the document itself, and there is some reason for holding that such might not have been the general intention of those who ratified the instrument. Later the Court extended the clause forbidding any state to pass a law impairing the obligation of contract to cover even agreements made by the states themselves in the form of charters and concessions, a ruling which, however expedient from the standpoint of the protection of private rights, certainly widened the meaning of the term "contract," as generally understood at the time. To cite a more recent example: until the acquisition of our insular dependencies, an achievement as far beyond the range of the vision of the convention of 1787 as any imaginable, the Court had uniformly ruled that the provisions safeguarding individual liberty, laid down in the first ten amendments, restricted the federal authorities everywhere, in the government of territories as well as in the districts organized into states; but when it became apparent that such practices of Anglo-Saxon peoples as indictment and trial by jury were not applicable to peoples in other stages of culture and with diverse historical antecedents, the Court, by a process more subtle than logical, found a way of freeing the administration of the island dependencies from some limitations that had hitherto applied in the government of territories.— *Beard, op. cit., pp. 75-77.*

[7] **Political Parties and the Constitution.** — The most complete revolution in our political system has not been brought about by amendments or by statutes, but by the customs of political parties in operating the machinery of the government. So radical is this transformation in the letter and spirit of the system of 1789, and so completely does it extend to the utmost extremities of that system, that it seems necessary to devote special chapters to an examination of its diverse aspects. A few examples, however, will be given here to illustrate concretely the ways in which party practices transform the written law.

a. The Constitution tells us that the President is elected by electors chosen as the legislatures of the states shall see fit. In

practice a few candidates are selected at national party conventions,— institutions wholly unknown to federal law; the electors are figureheads selected by the parties and bound to obey party commands; and the voters merely have the right to choose between the candidates nominated.

b. The Constitution informs us that the Senators are elected by the legislatures of the states. In practice they are chosen at legislative caucuses of majority parties, or, in some commonwealths, through a system of direct nomination.

c. The Constitution states that the Speaker is chosen by the House of Representatives. In fact, he is selected by a caucus of the majority members of the House.

d. In view of the Constitution the Speaker is the impartial presiding officer of the House. In fact, he is the leader of the majority party in that body.

e. The Constitution informs us that revenue bills must originate in the lower House. In plain fact, revenue bills originate in the Senate quite as much as in the House, although the latter body nominally exercises its prerogative.

f. The Constitution says very little about legislative procedure, but the whole spirit and operation of Congress depend upon the rules, organization of committees, and agreements among the leaders of the majority party.— *Beard, op. cit., pp. 74-75.*

[8] **Statutory Elaboration of the Constitution.** — It would be a mistake, of course, to confuse the formal amendments, which we have just considered, with statutes, especially in the matter of the sanction which each of the two forms of law has behind it. The former are placed beyond the reach of the legislature by an extraordinary process of enactment, and can be abrogated only by a similar process. A statute, on the other hand, is made by Congress, and may be altered or repealed at any time by the same body without further authority. Nevertheless, when viewed from the standpoint of content, there is no real intrinsic difference between many statutes and the provisions of the Constitution itself; and, if we regard as constitutional all that body of law relative to the fundamental organization of the three branches of the federal government,— legislative, executive,

and judicial,— then by far the greater portion of our constitutional law is to be found in the statutes. At all events, whoever would trace, even in grand outlines, the evolution of our constitutional system must take them into account.

Such, for instance, are the laws organizing all the executive departments which have grown out of the authority conferred by the barest mention in the Constitution of the facts that some appointments may be made by the "heads of departments," and that the President "may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices."— *Beard, op. cit., p. 72.*

CHAPTER II

ORGANIZATION OF THE FEDERAL GOVERNMENT

UNDER the American constitutional system, as has already been pointed out, governmental authority is divided between three great departments, the legislature, the executive, and the judiciary. Legislative authority is by the constitution vested in a congress which consists of two houses, a senate and a house of representatives. Under the Confederation, congress consisted of but one house, but in framing the new government the convention followed the example of England and of most of the states and created a bicameral body. In doing this the framers of the constitution believed that each house would act as a check upon the ill-considered legislation of the other, and that a two chambered legislature would be less liable to become tyrannical, or to encroach upon the other departments than a legislature of one chamber. The plan also offered a solution for the great controversy over representation; the House was made to represent the people while the Senate represented the states. The two chambered legislature now prevails in all the important countries of the world.

(1) The Senate. The senate of the United States is composed of two senators from each state. As already stated, it was the intention of the framers of the constitution that the senate should represent the states and the constitution provided that the senators should be elected by the state legislatures.[1] But as a matter of fact the senators have never represented the states in any true sense. The two senators from a state frequently vote on opposite sides of important questions and often belong to opposite political parties. No questions are now decided in the senate on state lines. With the growing confidence in democracy and the participation of the people in government, a demand for the popular election of senators was made throughout the union. Finally an amendment to the constitution was submitted by the sixty-second congress and during the present year (1913) has been ratified by the requisite number of states providing for the election of senators by the people. From now on, therefore, senators will be elected the same as representatives or any state officer. Even before the passage of this amendment several states virtually secured a popular election of senators by indirect means. Thus several states, as Oregon and Wisconsin, adopted the plan of nominating candidates by popular vote and compelling the legislature by political pressure or pledges to elect that candidate who received the endorsement of the people.

Senators are elected for terms of six years and receive a salary of $7,500 per year together with

mileage fees and small allowances for clerical and other assistance. The terms of only a third of the senators expire every two years, so that at any one time at least two-thirds of the members are experienced in senate procedure. The practice of reëlecting the same men to the senate is quite common. Several senators have served for over thirty years, and in 1911 nearly a third of the members of the senate had served for twenty years. With the admission of Arizona and New Mexico as states the number of senators was increased to ninety-six. To be eligible to the office of senator, a person must be at least thirty years of age, have been nine years a citizen of the United States, and a resident of the state from which he is elected. The senate is the judge of the qualifications and election of its own members. All senators, as well as representatives, are free from arrest except for treason, felony, or breach of the peace, while going to, attending, or returning from the sessions of their respective houses. They enjoy freedom of speech and debate and cannot be prosecuted for utterances made in the houses to which they belong. No senator can hold any other federal office, nor can he be appointed to any civil office created during his term as senator, or for which the salary has been increased.

(2) Powers of the Senate. As in the case of the upper house of state legislatures, the powers of the senate fall in three classes, legislative, executive, and judicial. The framers of the constitution were unable

to maintain a complete separation, so that each department is entrusted with certain functions which rightfully belong to the others.

The most important powers of the senate are its legislative powers. It is a coördinate branch of the national legislature, and with one exception its powers are identical with those of the house. That exception is the introduction of revenue bills. The constitution provides that all bills for raising revenue shall originate in the house of representatives. But even this is an exception in name rather than in fact, for the senate must concur in such bills before they can become laws, and it can propose amendments to revenue as to other bills. As a matter of form, the revenue bills are introduced in the house, but in the preparation of such bills, and in the determination of their final form the influence of the senate is fully as great as that of the house. This provision was inserted in the constitution because the house was representative of the people and the senate was not, and the fathers held strongly to the doctrine of no taxation except by their own representatives. On account of the longer term of the members of the senate, their longer and broader experience, and their smaller number, as well as their greater ability, the influence of the senate has come to greatly overshadow that of the house in legislation.[2]

In addition to its legislative functions, the senate performs two very important executive functions. It is given the power of approval over all treaties and the

appointments of the president. After the state department has negotiated a treaty with a foreign power, it must submit it to the senate for its approval before it can go into effect. It takes a two-thirds vote of the senate to approve a treaty. It may be approved or rejected as a whole, ratified in part, or may be amended, but when a treaty has been amended or changed it cannot become a law until it has been approved by the president and the foreign power. As a rule the state department before negotiating a treaty consults with the committee on foreign affairs of the senate, although it is not obliged to do so. The provision of the constitution requiring a two-thirds vote of the senate for approval has been found to be rather high and in several instances has defeated valuable treaties. It permits a political minority to defeat a treaty when "it sees an opportunity to reap political advantage thereby." After a treaty has been ratified by the senate it still remains for the president to put it into effect.

All appointments of the president must also be approved by the senate. This power was given to the senate to check abuses on the part of the executive. It was intended merely as a negative check, but in practice it has served to give the senate a very effective control over executive patronage and the civil administration. Appointments to the cabinet and as a rule to diplomatic positions are confirmed without question, but appointments to federal positions within the various states, as a result of what is known as "senatorial

courtesy," are usually not confirmed unless agreeable to the senators from that state if they be of the same political party as the president. In fact the practice now is for the senator of the majority party to suggest the candidates for the appointment. If the president refuses to make the appointment, the other senators stand by the senator from that state and refuse to confirm the president's choice. In this way the senate dictates the appointment of postmasters, federal judges, revenue collectors, attorneys, and similar officers.

The principal judicial function of the senate is the trial of impeachment cases. The constitution provides that the president, vice-president, and all civil officers of the United States may be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors. This does not apply to military and naval officers, who may be tried by court martial, or to members of congress, who may be tried by their respective houses, but applies to all other federal officers. The sole power of making the impeachment, that is of preferring the charges, is given to the house of representatives, but the trial takes place before the senate. In ordinary cases the vice-president or president pro tempore of the senate presides, but when the president is impeached the chief justice of the supreme court presides. It requires a two-thirds vote of the senators present to convict. The senate has had eight trials for impeachment but only two convictions have been secured — two district judges were removed.

Only one president, Andrew Johnson, has ever been impeached, and in his case there was lacking one vote for conviction.

(3) The House of Representatives. The house of representatives is composed of members from the various states chosen every second year. At present there are 435 members. In the first congress there were only sixty-five representatives, but the constitution provides that after each federal census congress shall fix the number and apportion the representatives among the states according to population.[3] As new states have been admitted the number has been increased until it has reached its present proportions. Since the adoption of the fourteenth amendment the entire number of persons in each state, except Indians not taxed, are counted in determining the population for purposes of apportionment. In the congress of 1913 New York had forty-three representatives and Pennsylvania thirty-six, while Arizona, Delaware, Nevada, New Mexico, and Wyoming had but one representative each. Each of the territories is represented in congress by a delegate who has the right to speak but not to vote.

Representatives must have attained the age of twenty-five years, have been citizens at least seven years, and at the time of their election must be residents of the state in which they are elected. The constitution does not prescribe the manner in which they shall be elected, but leaves that matter to the states, in

the absence of congressional regulation. For many years no act was passed by congress and representatives were elected in various ways, some by districts and some by the state at large. But finally an act was passed requiring the representatives in all states to be elected by districts, which should be "compact and contiguous territory" and as nearly equal in population as possible. Therefore each state is now divided into as many congressional districts as it has representatives in congress, and one representative is elected from each district every two years at the general fall election.[4] Any person can vote for congressman who can vote for members of the lower house of the state legislature, this provision being inserted in the constitution. The constitution does not require that a representative shall be a resident of the district from which he is elected, but custom has now established that rule.

Representatives are entitled to the same rights, privileges and disabilities as senators, and receive the same compensation. The house exercises three special powers not shared by the senate — the power to originate revenue bills, the sole power of impeachment, and the power to elect the president in case no candidate receives a majority of the votes in the electoral college. But these powers add little to the prestige of the house.

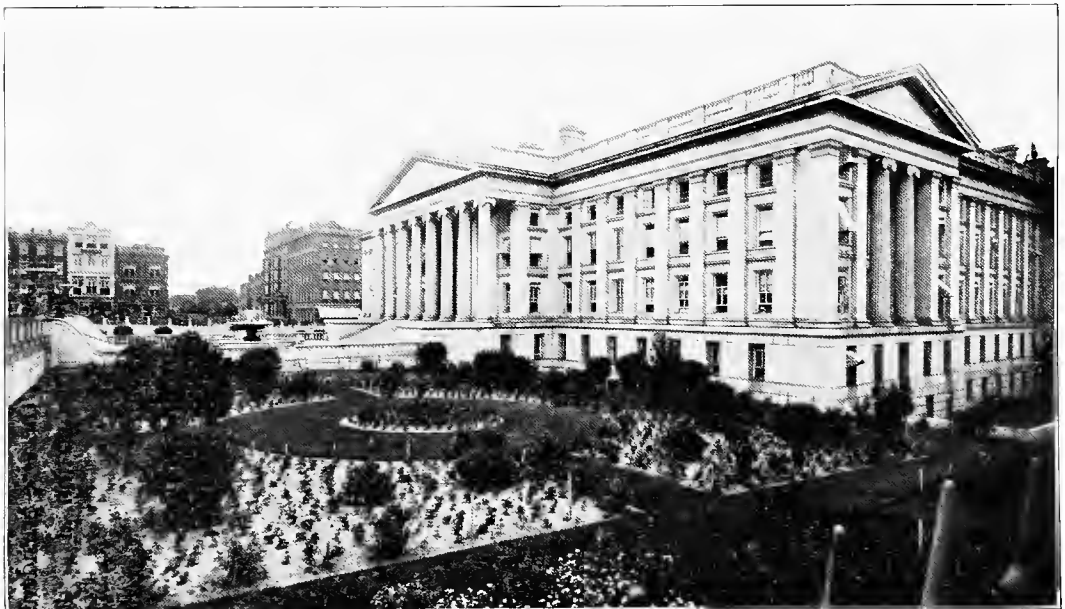
(4) Congressional Sessions. The constitution provides that congress shall meet once each year in regular

session, but extra sessions may be called by the president or by congress itself. The senate meets in the senate chamber in the north wing of the capitol and the house meets in the house of representatives in the south wing. A long session is held, beginning on the first Monday in December of each odd year and continues until congress adjourns, usually in June or July; a short session is held beginning in December of even years, and continues to the 4th of the following March. As all members of the house are elected in the fall of every even year, a new house of representatives is ushered in on the 4th of March of each odd year. This has led to the numbering of congresses according to biennial periods. The first congress began on March 4, 1789, and ended March 4, 1791; the sixty-third congress began on March 4, 1913, and will continue to March 4, 1915.

(5) The Organization of Congress. When a new congress convenes the house is called to order by the clerk of the preceding house, who calls the roll, and if a quorum is present the house proceeds to the election of its presiding officer, the speaker. Of course, the parties of the house have already held a caucus and decided upon their candidate, and the nomination of the majority party is nearly always equivalent to election, although in a few instances there have been long and bitter contests. In the senate, which is a continuous body, the vice-president of the United States presides, but the senate elects a president pro tempore,

who presides in the absence of the vice-president. Each house determines its own organization and adopts its own rules of procedure. Each has a chief clerk, various journal and other clerks, a sergeant-at-arms, postmaster, doorkeeper, chaplain, and various other minor officers. The oaths of office are administered by the presiding officer.

A majority of the members of each house constitutes a quorum for the transaction of business, and a smaller number must adjourn from day to day or compel the attendance of absent members. The early practice of determining a quorum was by roll call, but frequently members of the minority party would not answer in order to make the point of no quorum. Finally Speaker Reed commenced the practice of counting all persons present in determining a quorum, whether they voted or not, and this practice has been followed quite generally ever since. Frequently the business of congress is transacted without a quorum, however, this being permissible so long as the point of quorum is not raised. All ordinary sessions of both houses are opened to the public, but when the senate considers treaties or the appointments of the president and goes into executive session, the galleries are cleared, the doors closed, and the obligation of secrecy imposed upon its members. Each house keeps a journal of its proceedings, and the official account of their debates and proceedings are published by the government in the Congressional Record.



THE TREASURY BUILDING, WASHINGTON, D. C.

(6) The Speaker. The vice-president is not a member of the senate, but, like the English speaker, is merely an impartial presiding officer. He does not have a vote, except in case of a tie, and exercises little control over the legislation. But the speaker of the house of representatives occupies a far different position. He is the real leader of the house, and his power and influence has been gradually increased until his position is second in political importance only to the presidency itself, although since 1911 his power has been greatly reduced.[5] The committees of the senate are nominated by two committees on committees and elected by the senate itself, but until 1911 the committees of the house were appointed by the speaker, who gave the chairmanship of all committees to his followers and selected a majority on each committee from the members of his own party. In this way the speaker could virtually control the legislation to be enacted during the session. When the Democrats secured control of congress in 1911 they took this power away from the speaker and made all standing committees elective by the house the same as in the senate, and also removed the speaker from the committee on rules. But the speaker is still the leader of the house and exerts a controlling influence on its deliberations. He performs all the duties of presiding officer, and has the power of deciding whether a member shall be recognized or not. He thus has the power of increasing or destroying the influence which any member may exert

in the house. He also has the power to determine points of order, and frequently uses this to promote party interests.[6]

(7) Congressional Procedure. In the consideration of legislation, both houses of congress have followed the committee system. The senate now has seventy-two standing committees and the house has sixty-two. The number of members on a committee varies in the senate from three to twenty, and in the house from five to twenty-five. In addition to the standing committees here are usually several select and joint committees. The most important committees are those on ways and means, appropriations, commerce, foreign affairs, interstate commerce, military and naval affairs, and the committee on rules, which has already been mentioned.[7]

Bills are introduced in the same way, and the process of legislation is similar to that which has already been described in connection with state legislatures. All bills must be passed by both houses in the same form and signed by the president before they can become laws. The rules of procedure in the senate and house are slightly different, however. In the senate unlimited debate is offered in the consideration of any measure, while in the house, on account of the number of members, the time for discussion is limited. No member can speak over an hour, except by unanimous consent. The practice prevails in the house of printing in the Congressional Record speeches which are not delivered.

A member secures the floor and makes a few remarks, then asks that his remarks may be extended in the records. He then hands to the clerk his long speech, which is printed in full in The Congressional Record, and reprints of which he mails to his constituents. But in the senate such speeches are actually delivered, although on such occasions many of the senators are frequently absent or otherwise engaged. When bills are amended and the two houses cannot agree on their form, conference committees are appointed to adjust the matter.[8]

(8) The Federal Executive. At the head of the executive department is the president of the United States. The president is elected for a term of four years, by an indirect process, which will be described in Part VI of this volume, and receives an annual salary of $75,000 per year. In addition to his salary, the president receives an annual allowance of $25,000 for traveling expenses, and various allowances for clerks, carriages, fuel, printing, care of grounds, etc., aggregating altogether an annual compensation of about $250,000 per year. While president, he resides in the executive mansion, or White House.

The president's powers and duties, like those of the state governors, are partly legislative and partly administrative. His administrative duties will be discussed in the following chapter on Federal Administration, and only his legislative duties will be mentioned here. The president can exert a great deal of influence

on legislation. He is charged with the duty of sending a message to congress at the beginning of each session, and may send special messages at any time, giving information and making recommendations to congress with regard to needed legislation.[9] This is a very useful means of presenting his views to the country, for it is printed in nearly every daily paper in the land. It serves as a standard for measuring the accomplishments of congress. Then the president is given the veto power. All bills must be submitted to him for his signature before they can become laws. If he vetoes them, they must be passed by a two-thirds vote of both houses, which is not an easy thing to do. This power the president may use as a club to secure from congress desired legislation. Through his power of appointment, he may also exert a strong influence over the members of congress who have favors to ask, or who have friends to be appointed to various posts in the federal service. He may also call extra sessions of congress to enact needed legislation.

The influence of the president on legislation, as indeed in all departments of the administration, depends largely upon the personality of the president. In the hands of an energetic and aggressive personality, a real executive, the power of the president is great. If added to his aggressiveness is tact, he can virtually dominate the legislature and determine the character of the legislation. In recent years the powers of the president have been greatly increased. Under the ad-

ministration of President Roosevelt the office probably exerted the greatest influence on legislation of any time since the adoption of the constitution. The people are coming more and more to look to the president as the great popular representative to see that the pledges of the party platform are carried out.

(9) The Federal Judiciary. At the head of the federal system of courts is the supreme court of the United States, which is composed of a chief justice and eight associate justices appointed for life or good behavior by the president and confirmed by the senate. This is the only court established by the constitution, the other courts being created by congress, but even the supreme court is subject to congress in many ways. Congress determines the number of justices, their salary, and in some respects regulates its procedure and jurisdiction. Next under the supreme court are the circuit courts of appeals, nine in number, created by congress in 1891. These courts have appellate jurisdiction only, and were created to relieve the supreme court of some of its over-burdening work. No separate judges were appointed for these courts, but they are held, usually, by three circuit judges selected from the circuit in which they are located. Federal district judges sometimes sit on these courts also. Then there were, until 1911, federal circuit courts, but in that year all circuit courts were abolished. Now, the courts next below the circuit courts of appeal are the district courts. There are over eighty federal districts,

each of which has a district court and a district judge, some districts having two, according to the population and volume of business. In addition to these regular courts, there are several special courts, created to handle special cases. Among these are the court of claims, the court of customs appeals, and the commerce court. All federal judges are appointed by the president and hold office for life or good behavior. They can be removed only by impeachment. The chief justice of the supreme court receives a salary of $15,000. Associate justices are paid $14,500, circuit judges $7,000, and district judges $6,000 per year.

The jurisdiction of the federal courts have all cases arising under the constitution and laws of the United States, and under treaties made under their authority; all cases affecting ambassadors and other public ministers; all admiralty and maritime cases; cases in which the United States is a party; cases between states; and cases between the citizens of different states, or between the citizens of any state and the citizens of a foreign country. The most important power of the supreme court is the power to declare laws of congress or of any state legislature unconstitutional when they are in conflict with the federal constitution. This was first done in the famous case of Marbury v. Madison. When a law has been declared unconstitutional, it is null and void and has no force as law. Thus the federal courts, and the supreme court in particular, are the interpreters and protectors of the constitution.

In connection with the federal courts there are federal attorneys, who prosecute violations of federal law, United States marshals, who execute the processes of the federal courts, clerks who keep the court records, and commissioners who perform various duties similar to the justices of the peace under the state judicial systems.

SUPPLEMENTARY READING

CHAPTER II

Organization of the Federal Government

[1] **The Senate.** — The plan of giving representatives to the States as commonwealths has had several useful results. It has provided a basis for the Senate unlike that on which the other House of Congress is chosen. Every nation which has formed a legislature with two houses has experienced the difficulty of devising methods of choice sufficiently different to give a distinct character to each house. Italy has a Senate composed of persons nominated by the Crown. The Prussian House of Lords is partly nominated, partly hereditary, partly elective. The Spanish senators are partly hereditary, partly official, partly elective. In the Germanic Empire, the Federal Council consists of delegates of the several kingdoms and principalities. France appoints her senators by indirect election. In England the non-spiritual members of the House of Lords now sit by hereditary right; and those who propose to reconstruct that ancient body are at their wits' end to discover some plan by which it may be strengthened, and made practically useful, without such a direct election as that by which members are chosen to the House of Commons. The American plan, which is older than any of those in use on the European continent, is also better, because it is not only simple, but natural, i. e., grounded on and consonant with the political conditions of America. It produces a body which is both strong in itself and different in its collective character from the more popular House.

It also constitutes, as Hamilton anticipated, a link between the State Governments and the National Government. It is a part of the latter, but its members derive their title to sit in it

from their choice by State legislatures. In one respect this connection is no unmixed benefit, for it has helped to make the national parties powerful, and their strife intense, in these last-named bodies. Every vote in the Senate is so important to the great parties that they are forced to struggle for ascendancy in each of the State legislatures by whom the senators are elected. The method of choice in these bodies was formerly left to be fixed by the laws of each State, but as this gave rise to much uncertainty and intrigue, a Federal statute was passed in 1866 providing that each House of a State legislature shall first vote separately for the election of a Federal senator, and that if the choice of both Houses shall not fall on the same person, both Houses in joint meeting shall proceed to a joint vote, a majority of all the members elected to both Houses being present and voting. Even under this arrangement, a senatorial election often leads to long and bitter struggles; the minority endeavoring to prevent a choice, and so keep the seat vacant.

The Senate resembles the Upper Houses of Europe, and differs from those of the British colonies, and of most of the States of the Union, in being a permanent body. It is an undying body, with an existence continuous since its first creation; and though it changes, it does not change all at once, as do assemblies created by a single popular election, but undergoes an unceasing process of gradual renewal, like a lake into which streams bring fresh water to replace that which the issuing river carries out. As Harrington said of the Venetian Senate, "being always changing, it is forever the same." This provision was designed to give the Senate that permanency of composition which might qualify it to conduct or control the foreign policy of the nation. An incidental and more valuable result has been the creation of a set of traditions and a corporate spirit which have tended to form habits of dignity and self-respect. The new senators, being comparatively few, are readily assimilated; and though the balance of power shifts from one party to another according to the predominance in the State legislatures of one or other party, it shifts more slowly than in bodies directly chosen all at once, and a policy is therefore less apt to be suddenly reversed.—*James Bryce, "The American Commonwealth," pp. 99, 103.*

[2] **The Senate and Political Leadership.** — This connection between the Senate and political leadership has resulted in bringing into that body a large number of men whose principal claim to the office is the power to manipulate the state political machinery. "The dominating influence of the Senate in this matter was never more clearly shown than in the Republican convention of 1900. Both the temporary and the permanent chairmen were Senators; the four nomination speeches were made by Senators; and there were seven Senators on the most important committee, that on Resolutions, which drafted the national platform. The National Committee appointed by the convention contained five Senators, among them Hanna (as chairman) and Quay. The advisory council appointed by the National Committee had three senatorial members, among them Platt and Depew; while Hanna, Quay, and Scott were members of the Executive Committee. So well organized was the senatorial group at this time, that the selection of the presidential candidate was largely determined by their discretion, both in 1896 and 1900."

The political power of the Senate is greatly augmented by its control over treaties and appointments.

The Senate also derives no little influence through the connection of some of its members with those powerful economic interests which have operated largely through the extra-legal political organizations of the states. A great deal of severe criticism has been launched at the Senate on this account; it has been named by journalists, "the millionaire's club." As a matter of fact, many of the Senators are wealthy, but no discriminating or intelligent critic believes that any considerable number of them are corrupt or men whose ideal is the use of their office for the purpose of augmenting their personal riches. However, the Senators, as corporation lawyers and leaders in state politics, are necessarily brought into close touch with great corporate interests, and as the hand is subdued to the dye in which it works, their views of government are colored by the economic environment in which they move. "It is natural," says Professor Reinsch, "that the Senators should look upon political matters from the vantage ground of their special experience and

of the interests with which they have been connected. There need be in this no suspicion of direct corruption; there may, in fact, often exist a conviction of absolute impartiality. Yet their attitude of mind and of temper is nevertheless characterized by that conservatism — often exaggerated — of the man to whom is intrusted the management of great economic interests. There are Senators whose controlling purpose seems to be to protect and advance the interests of particular combinations of capital without any regard to the broader principles of statesmanship or even to their plain duty as representatives of the commonwealth." On the other hand, President Woodrow Wilson believes that the Senate "represents the country, as distinct from the accumulated populations of the country, much more fully and much more truly than the House of Representatives does."— *Charles A. Beard, "American Government and Politics," p. 250.*

[3] **The Apportionment of Representatives.** — After each decennial census, Congress determines upon the number of Representatives of which the House shall consist. The population of all the States is then divided by this number, the quotient being the ratio of representation; and the population of each State is divided by this ratio to ascertain the number of Representatives to which it is entitled. Thus after the thirteenth census had been taken (1910), Congress passed an act fixing the number of Representatives at 433. Dividing the aggregate population of all the States, as ascertained by the thirteenth census, by 433 gave a quotient of 210,444 as the ratio of representation. Then the population of each State was divided by this ratio, the resulting quotients being the number of Representatives of the respective States.

After each decennial census, the number of members has been increased, otherwise some States would have had fewer Representatives than during the previous decade, since population does not increase uniformly in all parts of the country. Under the present ratio, four commonwealths, Delaware, Nevada, Idaho, and Wyoming, would be without representation were it not for the constitutional provision that each State shall have at least

one Representative. When a new State is admitted, it is at once given representation, its members or member being additional to the number provided for by the preceding apportionment.— *William B. Guitteau, "Government and Politics in the United States," p. 259.*

[4] **Congressional Districts.** — The boundaries of the congressional districts within each commonwealth are determined by its legislature, subject to the restriction of federal laws that the districts shall be as nearly as practicable of equal population, and composed of compact and contiguous territory. In case the apportionment act changes the representation of a State, or if the decennial census shows that its population has increased unequally in various sections, redistricting the State becomes a necessity.

Sometimes States are redistricted for less legitimate reasons. The dominant party in the legislature may endeavor, by a process known as "gerrymandering," so to arrange the district lines as to secure a party majority in the greatest possible number of districts. This is done by massing the opposition votes in a few districts certain to be hostile in any event, and by so arranging the others as to insure a safe majority in each for the party in control of the legislature.

Federal law requires that the districts be composed of compact and contiguous territory; but it has been held that territory is contiguous if it touches the district at any point, and the result has been that some States have created districts of the most amazing irregularity. The statutory requirement that districts shall be of nearly equal population has also been disregarded. In order to gain a partisan advantage, legislatures have occasionally created districts with almost double the population of other districts in the same State.— *Guitteau, op. cit., p. 260.*

[5] **The Speaker.** — The central figure in the House of Representatives is the Speaker. Having in mind, doubtless, the somewhat ambiguous relations of the ancient Speakership to the Crown and to the House of Commons, the framers of our Constitution made that instrument declare that the House of Representatives "shall choose their speaker and other officers." There

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is no requirement that the Speaker and other officers shall be members of the House. The "other officers" are invariably not members of the House, and there appears no reason to doubt that the House has no greater freedom of choice with regard to them than it has with reference to its Speaker; but no case has ever yet risen where the Speaker was not chosen from the membership, and there is very little likelihood that there ever will be such an instance. Our Speaker does not bow three times to the chair which he is about to take, as does the English Speaker, in order to express his sense of the dignity of his office, but it is nevertheless a position not only of great dignity, but of great power, and indeed it may be said that its dignity would be greater if its power were less.

The power of the Speaker is chiefly derived from the circumstance that he is the organ of the House for the performance of certain important functions. I shall attempt to set forth with some detail the exact character of these functions as they appear in the rules, illustrated by the practice of the House. They will show that the office is one of great power, but I fancy they will also show the exaggeration in a commonly held view, which was set forth in one of the national platforms at the last presidential election, that the Speaker "is more powerful than the entire body." I think it will appear that he is not an autocrat, that when he does not keep in line with a majority of the House he is not even a leader, and that the nature and extent of his power are very much misunderstood. The majority of the members can overrule his decisions; they can refuse to pass orders emanating from the Committee on Rules of which he is chairman and which have no vitality without their action; they can and they often do emphatically vote down propositions which he is known to favor, and they can remove him from his office.— *Samuel W. McCall, "The Business of Congress," p. 121.*

When we consider the rigorous discipline ordinarily enforced by the speaker, we are led to inquire into the rationale of the submission of the House. What is the reason which compels its members to extinguish themselves so utterly, to give up every opportunity of making their individuality felt, and of subordinating themselves, their wishes, and their action entirely to the

direction of a few leaders and of the speaker? It is certainly not by choice that the average member submits to such a system. It must, therefore, be the logic of circumstances that has rendered this necessary. We have already seen that majority rule and the orderly transaction of business could not go on without a strict method of concentration. But there is less opposition and less effort to break away from the constituted authority than we should expect, and the machinery works ordinarily with great smoothness. Of primary importance, in accounting for this state of affairs, is the fact that the leaders of the House, in order to make their leadership effective, are virtually bound to support the centralized authority of the speaker. The men who, through experience and tact, have acquired positions as chairmen of the important committees, know that their opportunity to make their influence felt depends upon a strong speakership. This alone will secure that orderly procedure which will enable them to get the proper share of the time of the House for the transaction of the business which has been committed to their charge. Their influence stands and falls with that of the speaker. Should the House become anarchical, they would have to struggle for a hearing with the ordinary member on the floor and the advantage of a position gained by long experience and diligent service would be lost. The speaker will place on the prominent committees those men whom he considers the strongest, the most able to gain a following in the House and to deal effectively with some particular business. These men to a certain extent remain dependent upon him, and he is thus assured of the assistance of the strongest men in the House, who are personally interested in supporting the predominance of the hierarchy. Who then is there to lead and carry out a successful revolt? Suppose fifty or one hundred of the newer members, led by younger men of ability, should attempt to do so. They must brave the entire constituted authority, "the organization" of the House. They will not even be recognized to speak except at the sufferance of those in power. Every member knows that by revolting he endangers his influence. He loses whatever opportunity he may have for obtaining legislative favors for his constituents. He hazards the possibility of his own preferment, and, moreover,

he runs the risk of being looked upon as a traitor to his party. The success of such a movement in ordinary times is almost unthinkable. Only when the whole House is carried away by some powerful excitement, is the speaker's authority in danger. On the other hand, this situation of apparent autocracy does not permit the speaker to become entirely capricious and arbitrary in his rulings. A certain reciprocity of influence exists between him and the other leaders of the House. He must tactfully arrange to satisfy the heads of prominent committees and the leaders of powerful groups within the House. He cannot carry out an entirely personal and narrow policy, relying solely upon his unsupported authority. But while the leaders will always be consulted, the ordinary member is powerless; and in cases where the speaker, pursuing a broad and definite policy, uses the advantages of his position tactfully, he can even coerce unwilling leaders to accept his plans. It is thus the logic of institutions and of political action, not the voluntary choice of any member or majority of members, that has imposed this authority upon Congress and upon the Nation. When Mr. Reed boldly carried out his authority to the ultimate limits, he was the most berated man in the country. Had the question of his assumed power been submitted to a popular vote, he should undoubtedly have been defeated by an enormous majority; and yet the force of circumstances proved stronger than the likes and dislikes of the public, and an authority decidedly unpopular in its beginning is now accepted almost as a matter of course.—*Paul S. Reinsch, "American Legislatures and Legislative Methods," p. 59.*

[6] **Leadership in Congress.**—The first fact to be grasped is that the working methods of Congress are largely determined by the existence of two political parties — one, a majority in control of one or both houses and regarding itself as responsible for the principal legislative policies; the other, a minority, in opposition, bound under ordinary circumstances to criticise and often vote against the measures introduced and advanced by the majority. In England, the political party organization is carried frankly into the House of Commons, where the majority and minority sit facing each other, and where the government is

avowedly that of the predominant party — a government of men, not even theoretically of constitutional law. In the United States, the party rules none the less, but its organization and operations are, as we have seen, unknown to the formal law of the federal Constitution. It is true that the votes on measures in Congress are by no means always cast according to party divisions, but it is likewise true that the principal legislative work of a session is the work of the majority party, formulated by its leaders, and carried through under their direction.

This is not all. Each party in the Senate and the House is organized into a congressional caucus, in which is frequently determined the line of party action with regard to important legislative questions. It is in a party caucus before the opening of each Congress that the majority in the House chooses the Speaker and the minority decides upon its leader, whom it formally presents as a candidate for Speaker, knowing full well that he cannot by any chance be elected. It is in the caucus that the majority decides whether it will adopt the rules of the preceding Congress or modify them; and it is seldom that the decision of the caucus is overthrown. The caucus is definitely organized under rules by which the party members are expected to abide, although there are often a few "insurgents" who insist on acting independently on some matters.

The exact weight of the caucus in determining party policy is difficult to ascertain. At times in our history, undoubtedly, the caucus has settled fundamental matters of public interest before they were introduced into Congress, but there is reason for believing that its influence has been declining within recent years on account of the rise to power in each house of a few men whose long service, shrewdness in legislative management, and effective leadership have placed them in control of the speakership and the great committees.

How this is working out in the Senate is indicated by this passage from a speech made in that body in 1908, by Senator La Follette. "I attended a caucus at the beginning of this Congress. I happened to look at my watch when we went into that caucus. We were in session three minutes and a half. Do you know what happened? Well, I will tell you. A motion was

made that somebody preside. Then a motion was made that whoever presided should appoint a committee on committees; and a motion was then made that we adjourn. Nobody said anything but the Senator who made the motion. Then and there the fate of all the legislation of this session was decided. . Mr. President, if you will scan the committees of this Senate, you will find that a little handful of men are in domination and control of the greatest legislative committees of this body, and that they are a very limited number."— *Beard, op. cit., p. 267.*

[7] **The Committee on Rules.** — Still another source of the speaker's power until 1910 was his control of the committee on rules. In the beginning this committee was charged mainly with reporting upon desirable changes in the rules of the house, but gradually it was vested with the power of determining the order of procedure and to a large extent of directing what measures should be considered, and when. The committee consisted of five members, two from the majority, two from the minority, and the speaker, who was the fifth member. The speaker appointed his four associates on the committee and thereby controlled its decisions. If he wished at any time to have the house take up a bill at the bottom of the calendar instead of one at the top, or in any other respect depart from the established order of procedure, he could call the committee together (it was the one committee that had the right to meet when the house was in session) and have it report what was called a "special order," to that effect — a report which the house usually adopted. The opposition to the power of this committee and more especially to domination by the speaker was one of the causes of the revolt on the part of the "insurgent" Republicans referred to above. With the aid of the Democrats they passed a rule depriving the speaker of membership on the committee, increasing its size from five to ten, and taking the appointment of the committee out of his hands. Hereafter, it is to be elected by the house, and will be, it is asserted, a more representative committee.— *James W. Garner, "Government in the United States," p. 210.*

[8] **Conference Committees.** — If a bill or resolution has

passed the two Houses in identical form, it at once goes to the President for his approval. But it is a very common practice for one of the Houses to make amendments in measures sent to it by the other. Sometimes very many amendments are proposed, and the character of the legislation may be radically changed. One House or the other must recede, or both must yield something, so that they may meet upon common ground. A complicated procedure has thus grown up between the two Houses in order to bring them to an agreement. If the House which originated the bill accepts all of the amendments which are proposed by the other House, it goes at once to the President, but if it refuses to concur, and the other House does not recede from its amendments, but insists upon them, it is the common practice for conference committees to be appointed. In cases, frequent in the early practice, but exceptional in later usage, where there have been differences over amendments, the Houses have come together even without the appointment of committees of conference.

Requests for a conference come from the House which is in possession of the bill and the papers relating to it. Conferences are not confined to disagreements over amendments, but they have been held upon such subjects as questions of prerogative, the counting of the electoral vote, what titles it would be proper to give to the President and Vice-President, and upon other subjects of a general character. The conferences are usually held at the Senate end of the Capitol, and behind closed doors, although in some cases members and others have been permitted to make arguments before the committees.

The House frequently instructs its conferees, although it does not inform the Senate of the fact, but the practice of the Senate is against instruction. The Senate insists upon free conferences, and, in some cases, when it has been informed that the House had given instructions, Senators have protested against the practice. In the event of failure of the managers first appointed to agree, sometimes other managers are appointed in their stead, and there have been frequent instances of protracted conferences, and in some cases important bills have finally failed of passage through disagreement.

The subjects submitted to the conference are only those in disagreement between the two Houses, and it is not in order for the managers to include matters which are not in dispute. Oftentimes amendments may be proposed by the conferees to the amendments in controversy, but they must be germane to them and cannot involve new matter, and they must also be confined within the extreme positions taken by the two Houses. Sometimes differences between the Houses are very radical, as in the case where one House has struck out of a bill sent to it all after the enacting clause and substituted a bill of its own, sometimes upon an entirely different subject. In such a case the jurisdiction of the managers is very wide, and their function becomes a highly responsible one. The most important bills are usually in conference near the close of a session when there is an impatience among the membership of the Houses to finish the transaction of the public business before adjournment. This circumstance increases the responsibility which the managers are under, for their action is apt to escape the critical scrutiny which it would receive at any other time, and it is pretty sure to be adopted.

Reports of the conference committees are highly privileged, especially in the House of Representatives, where they are in order except during the reading of the journal, or while the roll is being called, or while the House is dividing upon any question. In the earlier practice it was not necessary that conference reports should be signed, but for a long time it has been the rule for the conferees to sign them and for them to appear in the journal. After the conferees have reached a final agreement, it is necessary for the House separately to adopt the report. After they have voted in its favor, the action becomes final so far as Congress is concerned, except in case of veto by the President.— *McCall, op. cit., p. 158.*

[9] **The President's Message.** — The message is the one great public document of the United States which is widely read and discussed. Congressional debates receive scant notice, but the President's message is printed almost in extenso in nearly every metropolitan daily, and is the subject of general editorial com-

ment throughout the length and breadth of the land. It is supposed, though often erroneously, to embody in a very direct sense the policy of the presidential party; it stirs the country; it often affects congressional elections; and if its recommendations correspond with real and positive interests of sufficient strength, they sooner or later find their way into law.

There ought to be no cavil about the President's frequent and considerable use of the power to give information to Congress. "From the nature and duties of the executive department," says Story, "he must possess more extensive sources of information as well in regard to domestic as to foreign affairs than can belong to Congress. The true workings of the laws, the defects in the nature or arrangements of the general systems of trade, finance, and justice, and the military, naval, and civil establishments of the Union are more readily seen, and more constantly under the review of the executive, than they can possibly be of any other department. There is great wisdom, therefore, in not merely allowing, but in requiring the President to lay before Congress all facts and information which may assist their deliberations; and in enabling him at once to point out the evil and suggest the remedy. He is thus justly made responsible, not merely for a due administration of the existing systems, but for due diligence and examination into the means of improving them."

Of course, it may be questioned whether, in these days of swift communication of thought and argus-eyed journalists, there is very much in the President's message that is new to Congress; and moreover, a great deal of the work of fitting legislation to conditions is done either by special or regular committees supposed to be more or less expert in the branches of legislation intrusted to their charge. Nevertheless, there can be no doubt about the advisability of a close association between those who make and those who enforce the laws. Especially is this true since the President is the only officer of the national government who represents the national party as a whole, and it is to him that the country looks for results in administration — results which can only be brought about by his coöperation with his party in Congress.— *Beard, op. cit., p. 199.*

CHAPTER III

FEDERAL ADMINISTRATION

AT the head of the federal administration is the president of the United States. Under the Articles of Confederation, it will be recalled, there was no president, and the need of a chief executive was greatly felt. When the constitution was adopted, therefore, provision was made for a president to direct the affairs of the executive department of the national government, and to him was given wide powers, not only in administration, but, as we have already seen, in legislation as well. The president of the United States enjoys a breadth of power and influence which is not possessed by any of the crowned heads of Europe.

(1) The Enforcement of Laws. It is the first duty of the president to see that the constitution of the United States is preserved, and that all laws made in pursuance of it, all treaties, and all decisions of the federal courts are enforced and observed. To accomplish this, he is given ample power by the constitution. The army and navy of the United States, and the militia of the several states are placed at his disposal and may be employed in case resistance is offered. Unlike the governors of the various states, the president is

given an effective control over the officers charged with assisting in the execution of the laws; all are appointed by him and may be removed at any time. The president may, therefore, be held responsible, and is held responsible, by public opinion, for the enforcement of law.

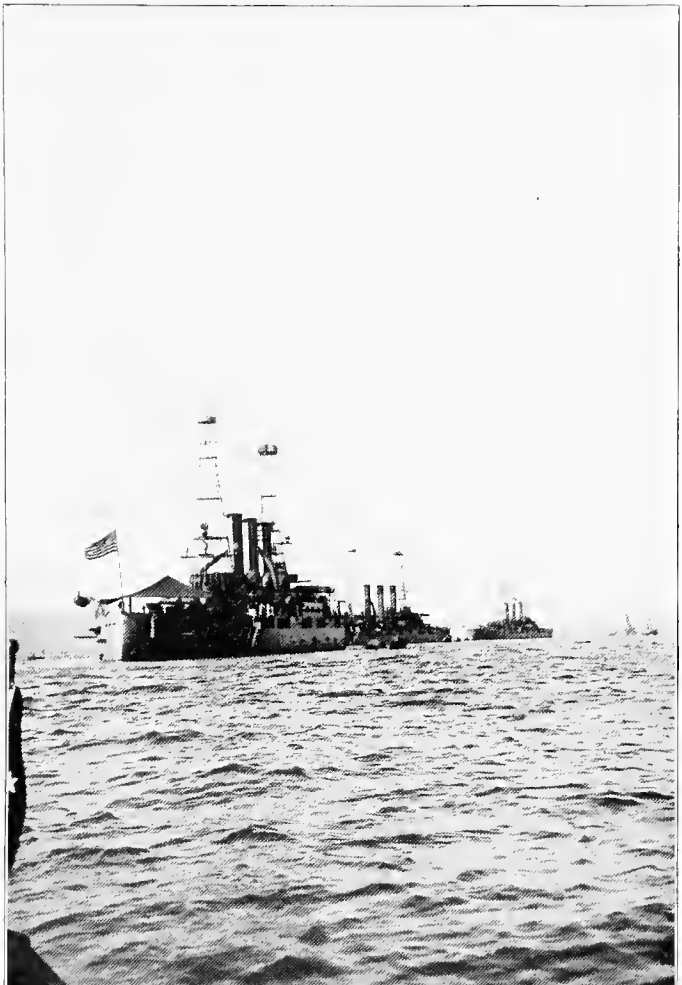
(2) Appointments. The president, with the advice and consent of the senate, is entrusted with the appointment of nearly all federal officers not otherwise appointed or selected. A few are appointed by the courts and a few by the heads of departments, but the great majority are appointed by the president, either with or without the consent of the senate. Over six thousand important offices are now filled by the president and senate. In the appointment of all the important officers, such as the members of the cabinet and the diplomatic service, members of the supreme court and other federal courts, and the higher consular officers, the president exercises a free hand. But in the appointment of many of the minor officers, appointments are made at the recommendation of the members of congress. This must necessarily be so, since it would be impossible for the president to make such appointments on his personal knowledge of the fitness of the applicant. Postmasters, federal attorneys, and frequently district judges are made in this way. The only limitation on the president is the constitutional requirement for qualification and fitness. As has already been stated, the members of the judiciary are appointed for

life. Members of the diplomatic and consular service are appointed for indefinite periods, but it is customary for such officials to resign upon the incoming of a new administration. Most other appointments are made for four years. Each president is therefore called upon and has an opportunity to fill nearly all presidential offices with his own appointees.

(3) Removals. The constitution is silent on the question of the president's power of removal, but the courts have usually held that this power is implied as a corollary to the power of appointment. The question arose in the first congress, and it was generally conceded that there was a power of removal other than impeachment, but whether this could be exercised by the president alone or whether the consent of the senate was necessary was an open question. It was finally decided that the president could exercise it without consulting the senate and this practice was followed until Andrew Johnson succeeded Lincoln and removed numerous officers who were in harmony with the majority of congress. A law was then passed forbidding the president to make removals without the consent of the senate. This law was modified when Grant became president, and was repealed in 1887. Since that time the president has enjoyed the fullest power of removal. He has the power to remove any federal officer except a federal judge, who can only be removed by impeachment, and this power is absolute and unlimited. He does not have to give reasons for the action, but may

exercise it when, in his judgment, the public service will benefit thereby. Or he may even exercise it to reward his political followers, as did Andrew Jackson when he initiated the infamous spoils system.

(4) Power of Direction. As head of the administration, the president has the power to give directions to the officials whom he appoints and who are responsible to him. He can issue orders and instructions to the heads of the various departments, and, by virtue of his power of removal, has an effective weapon for enforcing their observation. Of course, the duties of many federal officials are prescribed by the acts of congress creating the office and the president has no power to devote the office to other ends than the act intended, but even in the performance of the duties imposed by congress the president is necessarily given wide powers of direction. The greatest use of this power is made, however, in directing the immediate heads of the administration. Thus the president directs the attorney general with regard to the activity of the department — what cases to take up, what actions to institute, what trusts to prosecute, etc. The foreign affairs are conducted under the immediate direction of the president, and all treaties are negotiated under his direction and immediate supervision. To further control and direct the administration of the different departments the president also enjoys a wide ordinance power. He issues orders and regulations with regard to the conduct of various offices. Many of the laws of



Photograph by Underwood & Underwood

OUR EFFICIENT NAVY

United States Battleships at anchor on the Hudson River for the great Naval Display

congress deal with general principles only and leave the details to be regulated by executive ordinances.[1]

(5) Foreign Affairs. One of the most important duties of the president is the conduct of foreign affairs. He is given by the constitution three powers in this connection: The power to appoint ministers, ambassadors, and consuls; to receive foreign representatives; and to make treaties. The first and last he enjoys together with the senate. We have already discussed the power of appointment. While the appointments of the president must be confirmed by the senate, once they are confirmed, the control of the senate ceases; thereafter the appointees are under the control of the president, and the president is alone responsible for the success of the conduct of foreign relations.[2]

The president alone assumes the responsibility of receiving the diplomatic representatives of foreign countries. The question of recognition is usually merely a matter of courtesy, but at times it is a very important duty. The recognition of a foreign representative sometimes carries with it the recognition of the independence of the country from which the representative comes, and when such independence has not been secured it may be considered a hostile act by other nations. Thus a premature recognition of a revolting country may bring on war. The president sometimes refuses to receive a foreign representative on personal reasons, when the representative sent is *persona non grata.*

While the treaties negotiated by the president through the state department must be confirmed by the senate before being put in force, the actual negotiations of the treaties and the enforcement of them after being confirmed are matters for which the president is alone responsible. He elects the persons to carry on the negotiations, gives them their instructions with regard to what will be acceptable to the United States, and through his secretary of state conducts the correspondence. In short, the president has it within his power to determine what the relations of the government shall be with foreign nations. While he does not have the power to declare war, he can bring about a situation which will lead to war in spite of congressional opposition.

(6) Military Powers. Finally, the president is the commander-in-chief of the army and navy. In times of peace this is not important, but in times of war the entire conduct of the war may depend upon the president. With the advice of his secretary he selects the officers of the army and navy, directs the plans of campaign, and may, if he desires, assume personal command. If necessary, he can call on all able-bodied men to assist in prosecuting the war. He may place any territory under military rule and suspend civil processes. In short, his powers in time of war are virtually unlimited. In times of peace, he is charged with the duty of protecting the states from insurrection and invasion, of guaranteeing to each a republican form

of government, and upon the request of the governor or state legislature, of assisting in the suppression of internal violence.[3]

(7) The Cabinet. Congress has from time to time created administrative departments, the heads of which are appointed by the president, with the consent of the senate, and whose duty it is to look after the administration of a particular part of the executive business. There are now nine departments and the heads of these departments constitute the president's cabinet. As department heads, they direct the work of their departments, under the direction of the president; as members of the cabinet, they serve as advisers to the president. The cabinet has no legal status, but has developed from custom. At the beginning the president called on the heads of departments for their recommendations in writing, but after a time the practice of calling them together for consultation developed. Now the heads of departments are chosen with regard to their usefulness in advising the president. It is common for the president to select as members of the cabinet men who have been party leaders or who have had a great deal of experience in political affairs.

In the United States the president is free to select his own cabinet and its members are responsible to him alone. In European countries the cabinet is responsible to the popular house of the national legislature and must resign if their recommendations are not accepted, but the president's cabinet is in no way responsible to

congress. The members of the cabinet, in the order of their rank, are: Secretary of state, secretary of the treasury, secretary of war, the attorney general, the postmaster-general, secretary of the navy, secretary of the interior, secretary of agriculture, and the secretary of commerce and labor. The vice-president is not a member of the cabinet, strange as it may seem.

(8) The Department of State. The most important department of the national administration is the department of state, over which the secretary of state has supervision. This department used to be called the department of foreign affairs, and the most important part of its work is that of looking after foreign relations. The management of foreign affairs is conducted through this department. The diplomatic and consular service is directed and supervised by the secretary of state and his assistants, treaties are negotiated, and all our foreign representatives receive their instructions through this department.[4] The representatives of foreign countries usually communicate with this government through the secretary of state, and, in fact, all diplomatic correspondence is carried on through the department. It is also the department for communicating with the several states. And, in addition to these functions, the secretary of state performs those duties of a clerical character that are performed by the same office in the various states — keeps the great seal of the government, looks after publishing the laws, preserves the records of congress, countersigns the proclamations

and ordinances of the president, and performs duties of a similar nature.

The secretary of state succeeds to the presidency in case of the death of both president and vice-president. There are three assistant secretaries of state, and the department is divided into eight bureaus — the diplomatic bureau, consular bureau, bureau of accounts, bureau of appointments, etc. — with a chief in charge of each. Many of the bureaus are again divided into divisions, such as the division of eastern affairs, of western affairs, of Latin affairs, etc.

(9) Department of the Treasury. The next department in rank is the department of the treasury. As the name indicates, the duties of this department are connected mostly with the finances of the government. It is charged with the administration of the revenue laws, the keeping of public funds, the auditing of accounts, and the disbursement of moneys upon warrants by the proper authorities. The department also has charge of the coinage of money, and supervises the administration of the currency and banking laws. It is also charged with the supervision of various other departments and bureaus which do not naturally fall within its field. Thus in the treasury department are to be found the bureau of engraving and printing, the public health and marine hospital service,[5] the life-saving service,[6] the revenue cutter service, the supervising architect, the director of the mint, the secret service, and several other divisions. There are three assistant

secretaries of the treasury, and six departmental auditors. Other important officials in the treasury department are: Comptroller of the Treasury, who supervises the treasury accounts; the Register of the Treasury, who supervises the issuing of bonds; the Comptroller of the Currency, who supervises national banks; the Commissioner of Internal Revenue, who supervises the collection of internal revenue, and the Treasurer of the United States, who is charged with the receipt and disbursement of public funds.

(10) The War Department. The secretary of war has general supervision of the army and the national defense on land. He also has charge of river and harbor improvements, the regulation of navigation, and bridges over navigable waters. Among the important officers under the supervision of this department are: the General Staff, which has charge of the army; the Military Secretary, who has charge of the correspondence and the recruiting service; the Inspector General, who inspects the fortifications and equipment; the Quartermaster General, who looks after transportation and provides equipment; the Commissary General, who looks after rations and storehouses; the Surgeon General, in charge of the medical service; the Paymaster General, the Judge Advocate General, and the Chief of Engineers. In addition to these military bureaus, the war department also has a bureau of Insular Affairs, which is charged with the government of certain island possessions, such as the Philippines. The department also

has charge of the United States Military Academy at West Point.[7]

(11) The Department of Justice. At the head of the department of justice is the Attorney General. This department has to do with legal affairs and not with the administration of the courts, as the name might indicate. The attorney general is the legal advisor of the president. The president calls upon him for his opinion on all constitutional and administrative questions, and these opinions are published in volumes similar to court reports. He represents the United States in all cases in which it is a party, prosecutes all cases for violation of federal laws, under the direction of the president, and has general supervision over the federal attorneys. The attorney general also gives advice to other federal officials on application, and for this purpose is provided with a large number of assistants. There is a special solicitor for each of the important departments, and for each important division, such as solicitor for the department of commerce and labor, attorney in charge of pardons, etc. The attorney general also has general supervision of the federal prisons and reformatories.

(12) Post Office Department. The Postmaster General is at the head of the post office department and has general supervision of all matters relating to the mails. He makes the postal treaties with foreign nations, makes contracts with regard to the mail service, and appoints most of the employes of the department, except the assistant postmasters general, of which there

are four. The first assistant has charge of the appointment of postmasters, the adjustment of salaries and allowances, and city delivery; the second assistant has charge of railway adjustments, foreign mails, contracts, inspection, equipment, and the railway mail service; the third assistant of stamps, money orders, registered mail, and classifications, and the fourth assistant postmaster general has charge of rural delivery, dead letters, supplies, and typography. The administration of the post office department is the biggest business enterprise which the government has ever undertaken.

(13) Department of the Navy. The department of the navy, which is under the supervision of the secretary of the navy, is organized much the same as the department of war. It is composed of a bureau of navigation, which has charge of the recruiting work, the training of the naval forces, and the records of ships; a bureau of yards and docks, in charge of the navy yards and the construction of battleships; a bureau of equipment; a bureau of ordnance, which has charge of ammunition and the manufacture of guns and torpedoes, etc.; a bureau of construction and repairs; a bureau of steam engineering; one of medicine and surgery; and a bureau of supplies and accounts. It also has a Judge-Advocate-General, who looks after legal affairs, the same as in the war department; a solicitor, and a commandant of the marine corps. The department of the navy also has charge of the United States Naval Academy at Annapolis.[8]

THE DEPARTMENT OF AGRICULTURE, WASHINGTON, D. C.

The head of the great movement for the scientific development of the American farm

(14) Department of the Interior. The department of the interior is one of the most important departments of the federal administration. The secretary of the interior has general charge of all the matters relating to patents, the management of public lands, the supervision of the national parks, Indian affairs, education, the geological survey, and the reclamation service. Under the secretary are two assistant secretaries and a chief clerk, the commissioner of patents, the commissioner of pensions, the commissioner of the general land office, the commissioner of Indian affairs, the commissioner of education, the director of geological survey, and the director of the reclamation service.

(15) Department of Agriculture. In the department of agriculture and under the general supervision of the secretary of agriculture are a great many bureaus of growing interest to the general public. In this department is the United States weather bureau, and the forestry service. Other bureaus in the department are the bureau of plant industry, which makes a study of plant life and plant diseases in relation to agriculture; the bureau of animal industry, which inspects animals, meats, and meat food products, and seeks to improve the standard of agricultural stock; the bureau of chemistry, which analyzes food products, fertilizers, the composition of field products, etc.; the bureau of statistics, the bureau of soils, the bureau of entomology, the bureau of biological survey, the office of public roads, the office of experiment stations, and a large

number of other divisions. This department is probably in closer touch with people of the country than any other department. The work of Dr. Wiley along the line of pure foods has done a great deal to make it popular.

(16) Department of Commerce and Labor. The department of commerce and labor was created in 1903. It contains the labor bureau, the bureau of the census, the bureau of corporations, the bureau of manufactures, the lighthouse board, the coast and geodetic survey, the bureau of statistics, the bureau of fisheries, the bureau of navigation, the steamboat inspection service, the bureau of immigration and naturalization, and the bureau of standards. Although the youngest of the departments, the growing complexity of the present-day conditions, especially in the economic field, bids fair to make this one of the most important in the federal government. The bureau of corporations was created largely to conduct investigations and collect the data necessary to enforce the anti-trust laws, and the bureau of manufactures to promote United States industries and develop our trade abroad.

(17) Civil Service. For many years following the administration of Andrew Jackson appointments in the civil service were made on the basis that "to the victor belongs the spoils," but following the assassination of President Garfield public sentiment demanded the abandonment of the policy. In 1883, therefore, congress passed the Civil Service law. Under this law and

its subsequent amendments most of the routine employes of the executive departments are appointed. This law provided for a civil service commission of three members, whose duty it should be to hold examinations for the purpose of determining the fitness and qualification of applicants for positions in the civil service. Positions in the departments at Washington, in the post offices, and in the custom houses have been classified and examinations are held for each class. In this way eligible lists of qualified candidates are secured and appointments must be made from these lists. Over 200,000 positions are now under civil service regulation.

(18) The Government of Territories. In the fully organized territories of the United States a complete local territorial government is established, but in the partly organized territories (Porto Rico and the Philippines) the government is subjected to a more or less rigid supervision and control by the federal administration. The governor and the heads of departments are appointed by the president, as are also the members of the upper house, or executive council. Ex-president Taft was at one time the governor of the Philippines. In the unorganized territories the government is placed almost entirely in the hands of the president. The District of Columbia, the seat of the capitol, is governed under a special act of congress.[9]

SUPPLEMENTARY READING

CHAPTER III

Federal Administration

[1] **The President's Ordinance Power.** — The President's control over the conduct of the national administration is exercised in large measure by the issue of ordinances or executive regulations. Owing to the much greater detail in legislative statutes, executive regulations are less important in the United States than the ordinances of the German Bundesrath or the decrees of the French President, and even less important than the orders in council in Great Britain; but most writers have exaggerated the extent of congressional control and underrated the field of executive regulation in the American national administration. There are, in fact, many elaborate systems of executive regulations governing the transaction of business in all the various branches of the administration. These include organized codes of regulations for the army and navy, the postal service, the patent office, pension office, the land office, the Indian service, the customs, internal revenue and revenue cutter services, the consular service, and the rules governing examinations and appointments to the whole subordinate civil service. And in addition to these systematized rules there is an enormous mass of individual regulations, knowledge of which is limited to the few persons who have to apply them and to those whom they affect.

These executive regulations are sometimes issued in accordance with statutory provisions, sometimes without any express authorization as an exercise of the constitutional executive

power. Regulations made pursuant to statutes are very common. Thus the President is specifically authorized to make regulations for the purchase and disposition of supplies for the navy, in relation to the duties of the diplomatic and consular officers, for admission to the civil service, and in reference to killing fur seals; he may suspend tariff duties on imports from countries which enter into reciprocity agreements; he is authorized to prescribe the uniform for the army; and he has explicit power to establish internal revenue districts, pension agencies and forest reservations.

Other regulations, although not expressly authorized, supplement certain statutes, prescribing means for carrying them into effect in the absence of sufficient legislative regulation. Such regulations are often in the nature of interpretations of the statutes. The regulations governing the revenue cutter service are the most important example of this class; and are of especial significance, since they establish a penal system with a code of penalties and a system of procedure, all resting on executive action alone.

Still other regulations are issued by the President by virtue of his special constitutional powers. In this group are the greater part of the army regulations issued by the President as commander-in-chief.

Most of the executive regulations are not issued directly by the President, but are prepared in the department concerned, and issued by the head of department. But regulations issued in this way are considered as the acts of the President, and he is regarded as responsible for them.—*John A. Fairlie, "The National Administration of the United States," p. 21.*

[2] **Foreign Relations.** — The President has full control over all intercourse, communications and negotiations between the United States and all other governments; and while these are for the most part carried on through the secretary of state, that officer acts as the direct and personal agent of the President. The latter is kept more closely informed of the details of foreign negotiations than of other departments, and in important matters takes an active part in the negotiations. Ambassadors

and other ministers from foreign countries to the United States present their credentials to the President, and must be formally received by him. By this means he officially recognizes newly established governments. Ministers from the United States to foreign countries are nominated by the President; and while the nominations must be confirmed by the Senate, the President exercises a larger personal influence in these appointments than in others, while his power of nominating such officers cannot be transferred to any other official. In any case, the Senate's control over these ministers ends with their confirmation. Their duties are performed entirely under the direction of the executive. Instructions are sent to them, claims and demands presented, replies to foreign governments forwarded, from the President, acting through the department of State. Moreover, all correspondence and negotiations are generally conducted in secret; and seldom published until after some conclusions have been reached. The degree of discretionary action left to the secretary of state will naturally vary with circumstances,— such as the relative experience of that officer and the President in diplomatic affairs, the President's sense of propriety and his convictions on a given subject. But the responsibility in every case rests on the President alone; and the importance of the matters involved make essential his close personal attention.

Through this power over negotiations with foreign countries the President has a momentous and far-reaching authority. He has the sole initiative in making treaties, determining the subject matter, and proposing and agreeing to stipulations. Only after the formal draft of a treaty has been accepted by the President is it submitted to the Senate, so that it is impossible for that body to dictate a treaty. Moreover, the President may so conduct diplomatic negotiations as to force the country into a war, without any possibility of hindrance from Congress or the Senate.— *Fairlie, op. cit., p. 29.*

[3] **Why Great Men Are Not Chosen President.** — Europeans often ask, and Americans do not always explain, how it happens that this great office, the greatest in the world, unless we except the Papacy, to which any one can rise by his own merits, is not

more frequently filled by great and striking men. In America, which is beyond all other countries the country of a "career open to talents," a country, moreover, in which political life is unusually keen and political ambition widely diffused, it might be expected that the highest place would always be won by a man of brilliant gifts. But since the heroes of the Revolution died out with Jefferson and Adams and Madison some sixty years ago, no person except General Grant has reached the chair whose name would have been remembered had he not been President, and no President except Abraham Lincoln has displayed rare or striking qualities in the chair. Who now knows or cares to know anything about the personality of James K. Polk or Franklin Pierce? The only thing remarkable about them is that being so commonplace they should have climbed so high.

Several reasons may be suggested for the fact, which Americans are themselves the first to admit.

One is that the proportion of first-rate ability drawn into politics is smaller in America than in most European countries. This is a phenomenon whose causes must be elucidated later. In the meantime it is enough to say that in France and Italy, where half-revolutionary conditions have made public life exciting and accessible; in Germany, where an admirably-organized civil service cultivates and develops statecraft with unusual success; in England, where many persons of wealth and leisure seek to enter the political arena, while burning questions touch the interests of all classes and make men eager observers of the combatants, the total quantity of talent devoted to parliamentary or administrative work is larger, relatively to the population than in America, where much of the best ability, both for thought and for action, for planning and for executing, rushes into a field which is comparatively narrow in Europe, the business of developing the material resources of the country.

Another is that the methods and habits of Congress, and indeed of political life generally, give fewer opportunities for personal distinction, fewer modes in which a man may commend himself to his countrymen by eminent capacity in thought, in speech, or in administration, than is the case in the free

countries of Europe. This is a point to be explained in later chapters. I note here in passing what will there be dwelt on.

A third reason is that eminent men make more enemies, and give those enemies more assailable points, than obscure men do. They are therefore in so far less desirable candidates. It is true that the eminent man has also made more friends, that his name is more widely known, and may be greeted with louder cheers. Other things being equal, the famous man is preferable. But other things never are equal. The famous man has probably attacked some leaders in his own party, has supplanted others, has expressed his dislike to the crotchet of some active section, has perhaps committed errors which are capable of being magnified into offences. No man stands long before the public and bears a part in great affairs without giving openings to censorious criticism. Fiercer far than the light which beats upon a throne is the light which beats upon a presidential candidate, searching out all the recesses of his past life. Hence, when the choice lies between a brilliant man and a safe man, the safe man is preferred. Party feeling, strong enough to carry in on its back a man without conspicuous positive merits, is not always strong enough to procure forgiveness for a man with positive faults.— *James Bryce, "The American Commonwealth," p. 78.*

[4] **The Diplomatic Service.** — During the Middle Ages consular officials often exercised functions now considered as diplomatic. But with the development of diplomacy, special agents were used for the negotiation of treaties, and gradually the present system of diplomatic officials was established. For some time there was no general custom determining the rank and authority of different diplomatic agents; but the Congress of Vienna in 1815 adopted certain rules, which, as amended in 1818, have been followed in all other countries and have been formally accepted by the United States. Under these rules, there are now four classes of diplomatic agents, ranking as follows: First, ambassadors, legates, or nuncios; second, envoys, or ministers plenipotentiary; third, ministers resident; and fourth, chargés d'affairs. The first three classes of agents are accredited

to the chief executive of a foreign government; the fourth class are accredited only to the minister or secretary of foreign affairs. Formerly ambassadors were considered as the personal representatives of the chief executive and had the special right to conduct negotiations in person with the chief executive of the country to which they were accredited. But in recent practice, all official negotiations are carried on through the minister of foreign affairs, and ambassadors differ from other ministers only in rank and social precedence.

The first American diplomatic agent was Silas Deane, sent in 1776 as an envoy of the revolting colonies to secure assistance from France. Later Franklin and others were also sent as temporary envoys; and after the capture of Yorktown, Jay, Adams, Franklin, and Laurens were appointed agents to negotiate the treaty of peace. The first permanent envoy was Thomas Jefferson, Minister to France during the latter years of the Confederation. Even after the establishment of the government under the constitution, the diplomatic service developed slowly. In 1790 a chargé d'affaires was sent to Spain, and in 1792 a minister to Great Britain. The first minister to Russia was John Quincy Adams in 1809; and none was sent to Austria-Hungary until 1838. By 1886 there were in the diplomatic service of the United States fifteen envoys extraordinary and ministers plenipotentiary, sixteen ministers resident, one chargé d'affaires and one diplomatic agent. Opposition to official recognition to social distinctions prevented the creation of ambassadors, to the advantage of our representatives in the principal countries in Europe; but in 1893 the highest class of diplomatic offices was established.

At present the United States has seven ambassadors — to Great Britain, France, Germany, Russia, Italy, Austria-Hungary and Mexico — each of these countries sending an ambassador to the United States. There are further envoys extraordinary and ministers plenipotentiary accredited to thirty-four governments, and also one minister resident, two diplomatic agents and one chargé d'affaires. Among these, however, six officials are accredited to more than one government. One man serves as envoy to Greece, Roumania and Servia; and at the same time is

diplomatic agent at Bulgaria. Thus the forty-five posts are filled by thirty-six officers. These officers give the United States a diplomatic representative to every government of Europe, except Montenegro and some almost infinitesimal states, to every American government and to those governments of Asia and Africa with which the United States has any relations.— *Fairlie, op. cit., p. 81.*

[5] **The Public Health Service.** — The Public Health and Marine Hospital Service is under the direction of the surgeon-general, appointed by the President and Senate at a salary of $5,000 a year. This officer is always a member of the medical profession, and the position is permanent and not subject to political changes.

In its origin this service was established to provide medical assistance for sick and disabled seamen in the merchant marine, but to this have been added functions in the prevention and suppression of contagious diseases. The marine hospital service was established in 1798, and reorganized in 1870. There are now forty stations at the principal shipping ports, where hospitals are maintained for the medical treatment and care of sailors, supported principally by a small tax on sailors' wages. The officers of the marine hospital service make physical examinations of candidates for the revenue cutter and life saving services, of applicants for pilots' licenses and — on request of the master or agent — of seamen in the merchant marine.

In 1878 there was established a national board of health, which had only a brief existence; but in recent years powers which might be assigned to such a body have been conferred on the surgeon-general, who is now to a considerable degree a public health officer for the whole country. By the inter-state quarantine law of 1890, he was authorized to adopt measures to prevent the spread of certain contagious diseases from one state to another, and to supervise the medical examination of alien immigrants. In 1893 he was given control over the national quarantine service. And in 1902 he was authorized to call annual conferences of state health and quarantine officials; and at the same time the name of the service was changed to the public

health and marine hospital service, in order to indicate its enlarged functions. The bureau contains laboratories for the investigation of contagious diseases; and publishes weekly health reports from state and foreign health authorities.— *Fairlie, op. cit., p. 129.*

[6] **The Life Saving Service.** — The Life Saving Service, under the charge of a general superintendent at $4,000 a year, is established for the saving of life and secondarily of property from stranded or endangered vessels upon the United States coasts. The general superintendent has supervision over the entire service; and also prepares an annual statistical report on all marine disasters in United States waters, and disasters to United States vessels abroad. The coast line is divided into districts, each under a superintendent, who must be an experienced surfman and familiar with his coast and its inhabitants. He selects the keepers of the stations, and is responsible to the general superintendent for the efficiency of his district. Each station force consists of a keeper and six men. The keeper must be an experienced surfman, he selects his crew and has charge of the property and controls the station service. The stations are in operation from September to May on the sea and gulf coasts, and on the lakes during the navigation season. During these seasons a watch must be kept at all times, and in heavy weather and at night a constant patrol of the coast. In case a wreck is discovered, the station is notified and the entire force is employed in rescuing those on board. So far as practicable also property is saved.— *Ibid., p. 130.*

[7] **The United States Military Academy.** — The United States Military Academy, at West Point, N. Y., is the training school for officers in the army. Established in 1802, the academy was reorganized and put on a firm foundation in 1817, the first results of the new system of training being shown in the Mexican War. For the last fifty years its graduates have constituted a large majority of the officers of the regular army in time of peace; but the officers of volunteer armies and new appointments in the regular army during and after wars have in large measure been appointed from other sources.

General supervision of the academy is maintained by the Secretary of War and a board of visitors consisting of seven members appointed by the President of the United States, two by the president of the Senate, and three by the speaker of the House of Representatives. The superintendent and military instructors are officers of the army. Cadets are appointed, one from each congressional district, territory and the District of Columbia, two at large from each state, and thirty at large from the United States. Appointments are made by the President of the United States; but by custom all but the thirty at large are selected by the members of Congress. All candidates are subjected to a physical and intellectual examination, which about one-fourth of the appointees fail to pass. The course of instruction lasts for four years, and is largely mathematical, scientific and military, with special reference to military engineering; but includes also modern languages, history, and constitutional and international law. The cadets receive $609.50 a year, and from this must maintain themselves. Graduates receive appointments as second lieutenants in the army, the highest rank men having the preference as to the branch of service, and must serve for two years, after which they may resign from the army.

Postgraduate schools of military instruction for army officers are also maintained now at certain army posts throughout the country. These include a school for engineers at Willett's Point, N. Y., a school for artillery officers at Fortress Monroe, Va., a school for infantry and cavalry officers at Fort Leavenworth, a school for cavalry and field artillery at Fort Riley, and the Army War College for the most advanced instruction at Washington, D. C.—*Fairlie, op. cit., p. 147.*

[8] **The Naval Academy.** — The United States Naval Academy, at Annapolis, Md., was founded in 1845, without specific authority from Congress, by Secretary of Navy George Bancroft. Efforts to establish a school for the navy similar to the military academy had been made since the War of 1812; and after the institution was organized it was recognized and supported by Congress. During the Civil War the naval academy

THE GREAT TRAINING SCHOOL FOR OUR SOLDIER BOYS
View from the campus, West Point, N. Y.

was removed to Newport, R. I., but returned to Annapolis at the close of hostilities.

A board of visitors is appointed as for the military academy. A naval officer not below the rank of captain is assigned as superintendent of the naval academy, and other naval officers as instructors in various subjects, with some appointments as instructors from outside the navy. The course at the academy continues for four years, and includes instruction in naval construction, ordnance and gunnery, steam engineering, seamanship, navigation, and naval tactics, besides introductory work in mathematics and physical sciences, and courses in modern languages and constitutional and international law.

Appointments as naval cadets or midshipmen are made by the President from congressional districts, states, and territories, with some at large, the local appointments being usually selected by the members of Congress. In order to keep pace with the rapid development in the number of ships in the navy, it has been provided that until 1913 two midshipmen should be appointed for each member or delegate in Congress and five at large each year.

After the course at the academy, midshipmen complete their preparations by a two years' course at sea, after which they receive appointments as line or engineer officers. Most of the naval officers, except those in the medical corps, are graduates of the naval academy; and this tradition of common education and the personal acquaintance resulting from the transfers from one ship to another has developed a much stronger esprit de corps than in the army, where many of the officers have entered the service through the volunteer armies.

A Naval War College for postgraduate study of problems in naval strategy and tactics has been maintained at Newport, R. I., since 1885. About twenty-five officers are assigned for this purpose every year. At the same place is a torpedo station, where instruction in the construction and use of torpedoes is given.

Many of the rules and customs of international law apply specifically to naval administration; and a few of the most

important may be noted here. Navy vessels frequently enter the ports of foreign powers in time of peace; but they are considered as exempted by the consent of such powers from their jurisdiction, and as remaining under the exclusive jurisdiction of the home government exercised by the officers of the ship itself. When, however, officers and crew go ashore in a foreign country they cannot claim diplomatic privileges, but come under the jurisdiction of the foreign country.—*Fairlie, op. cit., p. 162.*

[9] **The District of Columbia.**—The District of Columbia was established under the authority and direction of acts of Congress approved July 16, 1790, and March 3, 1791, which were passed to give effect to a clause in the eighth section of the first article of the Constitution of the United States, giving Congress the power—

"To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other useful buildings."

The local government of the District of Columbia is a municipal corporation having jurisdiction over the territory which "was ceded by the State of Maryland to the Congress of the United States for the permanent seat of the Government of the United States."

This government is administered by a board of three Commissioners having in general equal powers and duties.

Two of these Commissioners, who must have been actual residents of the District for three years next before their appointment and have during that period claimed residence nowhere else, are appointed from civil life by the President of the United States and confirmed by the Senate of the United States for a term of three years each and until their successors are appointed and qualified.

The other Commissioner is detailed from time to time by the

President of the United States from the Engineer Corps of the United States Army, and shall not be required to perform any other duty. This Commissioner shall be selected from among the captains or officers of higher grade having served at least fifteen years in the corps of Engineers of the Army of the United States.

Three officers of the same corps, junior to said Commissioner, may be detailed to assist him by the President of the United States.

The senior officer of the Corps of Engineers of the Army who shall for the time being be detailed to act as assistant (and in case of his absence from the District or disability, the junior officer so detailed) shall, in the event of the absence from the District or disability of the Commissioner who shall for the time being be detailed from the Corps of Engineers, perform all the duties imposed by law upon said Commissioner.

The salary of each of the Commissioners is $5,000 per annum.

One of said Commissioners shall be chosen president of the Board of Commissioners at their first meeting, and annually and whenever a vacancy shall occur thereafter.

The Commissioners are in a general way vested with jurisdiction covering all the ordinary features of municipal government.

Congress has by sundry statutes empowered the Commissioners to make building regulations; plumbing regulations; to make and enforce all such reasonable and usual police regulations as they may deem necessary for the protection of lives, limbs, health, comfort, and quiet of all persons, and the protection of all property within the District, and other regulations of a municipal nature.—*Congressional Directory, 1908, p. 387.*

CHAPTER IV

FEDERAL FUNCTIONS

THUS far the general organization and administration of the federal government have been dealt with, and from this discussion a general idea of the governmental functions may be gathered. There are, however, a great many functions which the federal government performs that are not closely connected with its governmental capacity, but which it performs because it is the best agency for performing them. The federal government is one of enumerated powers, but it now exercises many powers which are not enumerated in the Constitution. The courts have developed the theory of "implied powers." Under the theory of implied powers the courts have held that when a certain duty has been imposed on the federal government by the Constitution, all powers reasonably necessary and essential to the performance of that duty are by implication granted to the government. Thus it was held that the United States could establish a federal bank under the power given to the government to conduct its fiscal undertakings and to regulate the currency. As social and economic conditions have become more complex, as the need of more

extensive governmental regulations has been more keenly felt, and the popular attitude toward the extension of the activities of the government has become more favorable, the courts have become more liberal in their interpretation of the constitutional grants of power, and the government's activities have been extended to functions which would have horrified the framers of the Constitution. The fear of an oppressive government has disappeared, and the national government is being more and more looked to to handle problems which the authorities of a single state are powerless to solve. It would be impossible in the small space to be devoted to this chapter to even calalogue these functions; only a few of those of a more or less non-governmental nature can be mentioned to indicate the scope and variety to which the activities of the government have attained.

(1) The Consular Service. Even in the execution of the governmental functions, the government performs additional functions of a non-governmental nature. An illustration is the consular service.[1] At the present time the United States maintains over 325 consular offices over the world and employs over 750 persons in the consular service. They have certain governmental duties to perform, but their duties are mainly commercial. They give aid and advice to merchant vessels and settle disputes between American captains and seamen; they verify the invoices of goods being shipped into this country and inspect

ships' manifests, as well as perform certain judicial functions. But at the same time it is the duty of a consul to become acquainted with the developments in commerce and manufactures, and to study the market with a view to developing our foreign trade. They make reports on the demands of the market and the opportunities for increasing the sale of American-made goods. These reports are published by the department of commerce in what are called "Daily Consular and Trade Reports," and are mailed regularly on request to manufacturers and others who can benefit by the information. Other information of commercial and scientific value is reported by the consular service whenever possible.

(2) Financial Machinery. The taxes of the United States are received mostly from indirect sources—customs duties and internal revenue. For many years the customs furnished most of the revenue. A great deal of administrative machinery is necessary for the collection of customs duties. In 1903 there were 128 ports of entry where imported goods could be received, and 31 delivery ports in the interior where goods could be shipped direct. Altogether there are nearly 5,000 persons engaged in the customs offices, and in 1912 the customs collections amounted to $311,321,672. The largest amount collected in customs in any one year was $333,683,445 in 1910. In addition to the regular customs officers, the government em-

ploys about eighty revenue cutters with a force of 200 men to enforce the customs laws.

As much revenue is now received from internal revenue taxes — taxes on intoxicating liquors, tobacco, oleomargerine, etc. — as from customs. In 1912 the internal receipts amounted to $321,612,200.

In connection with the coinage of money the United States has established mints at Philadelphia, New Orleans, Denver, and San Francisco. Up to June, 1912, the mints of the United States had coined a total of over five billion coins with a value of over four billion dollars.[2]

(3) National Banks. In connection with its financial policy the government exercises control over the national banks. Any five or more persons may organize a national bank. All such banks must purchase and deposit with the government United States bonds equal in amount to one-fourth of the capital of the bank. On depositing these bonds the comptroller of the currency issues to the bank notes designed and printed by the bureau of engraving and printing equal to the amount of bonds deposited. When signed by the president and cashier of the bank, these national bank notes may be circulated as money. The government inspects the methods and condition of all national banks and if one fails the government sells the bonds deposited by the bank and redeems its notes. Thus the holder of national bank notes is protected against loss. No bank other than a national bank can issue

such notes without paying a tax of ten per cent per year while they are outstanding. This means has been adopted by the government to regulate the currency and to prevent banks from flooding the country with paper money which is liable to depreciate at any time. There were, in 1912, 7,372 national banks in the country and these had issued national bank notes which were in circulation to the amount of $705,196,304.

(4) The Army and Navy. One of the heaviest burdens of the government is the maintenance of the army and navy. The total cost of the war department for 1912 was $150,182,311, and of the navy department $135,556,259. Congress is authorized by the Constitution to maintain a standing army in times of peace of not exceeding 100,000 men. The total strength of the army at the present time is 4,781 commissioned officers, and 81,547 enlisted men. This is made up of 2,000 engineers, 14,588 cavalry, 5,669 field artillery, 19,186 coast artillery, 31,871 infantry and the various forces at different military depots.

In naval equipment the United States ranks third among the nations of the world, being outclassed by England and Germany. The total number of vessels in the United States navy is 399. Of these, 38 are first-class battleships, 12 armored cruisers, 10 monitors, 24 gunboats, 28 steel torpedo boats, 49 submarine torpedo boats, 56 torpedo boat destroyers, and 19 cruisers of various types. The rest are made up of

light gunboats, training ships, tugs, colliers, transport ships, and converted vessels of various kinds. Sixty thousand men are required to man the equipment.

In addition to the maintenance and equipment of the army and navy the government must support a great many other auxiliary institutions. It maintains a military academy, a naval academy, a war college, various army service schools, a medical school, engineering schools, garrison schools, and various other schools for technical training. It must also bear the burden of post bellum activities. It provides a great many national cemeteries and several soldiers' homes. It must also contribute to the support of those old soldiers who are not in the homes, and to their dependent widows and children. In 1912 there were 860,294 pensioners on the pension roll, and $152,986,433 were expended in pensions during the year.[3]

(5) The Postal Service. The greatest business function which the government performs is the maintenance of the postal service. This has been called the greatest business in the world. It reaches more people and handles more separate pieces, receives more money and disburses more money than any other business enterprise in the world, private or public. There are at the present time 58,729 post offices in the United States. There are 25,000 different routes and an aggregate mileage of 436,469 miles. The total receipts of the department in 1912 were $246,744,015, and the total disbursements were $248,525,450. It is esti-

mated that during the fiscal year 1912 over 17,588,000,000 pieces of mail matter were handled; 9,928,263,748 postage stamps were issued, 909,411,045 post cards handled, and 16,756,499 special deliveries were made. Over 42,000,000 letters and packages were registered, and 89,000,000 money orders were sold, amounting to $594,901,623.90. Some idea of the stupendous proportions of this branch of the government service may be obtained from these figures. The department now employs over 325,000 employes. At the beginning, the postal service applied only to letters, but it has now been extended to all classes of mail matter, to registered mail, the sale of money orders, rural free delivery, postal savings banks, and during the present year to the parcels post.

Post offices are divided into four classes, according to their gross receipts, and in the larger cities these run very high. The receipts of the New York post office exceed $15,000,000 per year. In the cities of 10,000 and over the government usually owns the post office building, but in the smaller towns and villages the post office is usually located in some store or other building. Mail matter is divided into four classes also, and the rate of postage varies with the class. Letters and postal cards are in the first class, newspapers and magazines in the second, other printed matter in the third, and merchandise in the fourth.

In all cities of 10,000 population, or where the postal receipts aggregate $10,000 per year, the free delivery

of mail is provided. In 1885 the special delivery service was established. By the purchase of a special delivery stamp, which is placed on the letter in addition to the required postage and which costs ten cents, the letter is delivered immediately upon its arrival. To insure special care in the handling of valuable mail, the registry service is maintained. Upon the payment of ten cents extra postage, the letter or parcel is registered at each office through which it passes, in order that a record may be kept of transit and a receipt is secured upon delivery and returned to the person registering and sending it. In this way safe delivery is virtually assured. The government now also has a system of insurance against loss of registered mail.

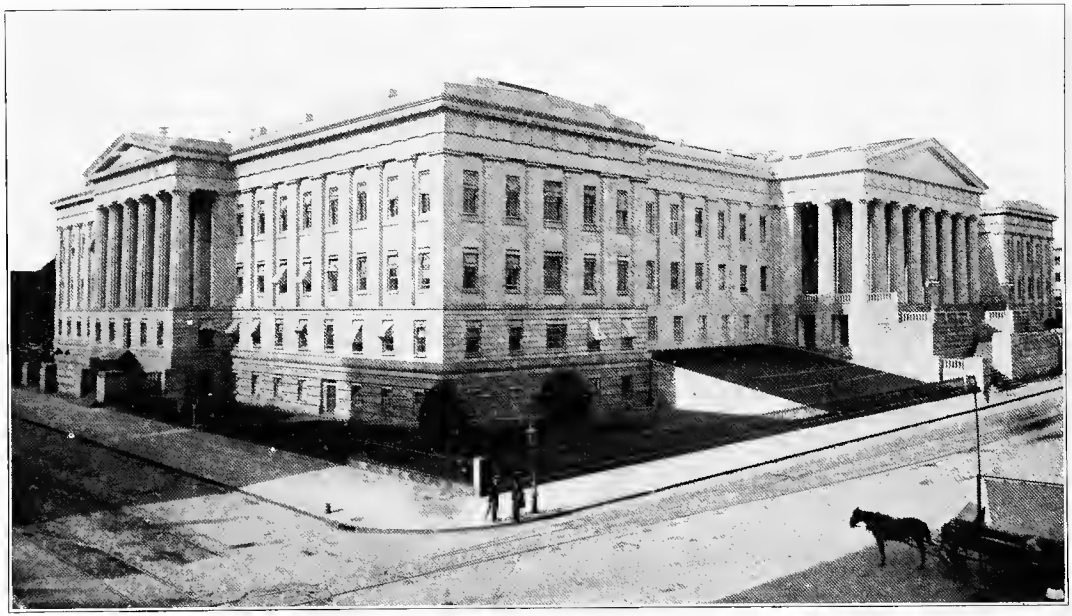
One of the most remarkable extensions of the postal service in recent years has been the rural delivery service.[4] This was started as an experiment in 1897 with an appropriation of $15,000. In 1912, 42,199 carriers were employed in this service, over 1,000,000 miles being traversed each day. The total cost during the last fiscal year was $41,856,061.

In 1864 the money order service was established. This service now covers international as well as domestic orders. In 1910 congress passed an act providing for postal savings banks.[5] Under this act any person may deposit with the local post office any amount from $1 to $500 and receive interest at the rate of two per cent per year. As yet the service is in the experimental stage, but it proved successful in the

Philippines and will undoubtedly prove successful here. During the last year a parcels post service has been established. Under this service packages weighing not over eleven pounds will be accepted and delivered at rates based upon the distance sent. The first few months of this service have been so successful that the department is already contemplating raising the weight to twenty pounds and cutting the rates, which are already far below the ordinary express rates.

(6) Copyrights. In order to promote science and the arts, congress is given the power to grant copyrights. The purpose of copyrights is to guarantee to authors the rights that attach to the copy of their manuscripts. By securing a copyright the author is protected against the reprinting of his work without his consent, and is assured of the benefits of his labor. Books, manuscripts, paintings, drawings, plans, musical compositions, addresses, photographs, and similar pieces of art, literature, or workmanship may be copyrighted. Two copies of the work, if it is printed matter, are submitted to the register of copyrights, together with the fee of $1, and the copyright is recorded. "Copyright (date), by (name)" is usually printed on the copies of the work as a notice of the fact that it has been copyrighted. The copyright runs for twenty-eight years, and may be renewed for a like period. By treaty arrangements, foreign productions may now be copyrighted in most nations.

(7) Patents. Protection to inventors is offered by



THE PATENT OFFICE, WASHINGTON, D. C.
The great American "Curiosity-Shop"

the government by means of patents. Patents are monopoly rights granted to inventors to secure to them the benefits of their inventions. When a person has invented a machine or device and wishes it patented, he makes application to the patent office, describing it, and, if necessary, furnishing a model. These are examined by the experts of the patent office to find if the same thing has ever been patented before. If not, and if it is a useful article, the patent is issued. An application fee of $15 and a registration fee of $20 are charged. After a patent has been granted, the article is always marked "Patented," with the date of the patent. No one person can thereafter make or utilize or sell the article except under arrangements with the patentee during the life of the patent. If this right is violated, he can collect damages through the federal courts. The patent runs for seventeen years. During 1912, 34,084 patents were issued.

(8) Conservation. A government function of growing importance is the conservation, preservation, and improvement of our national resources. A great impetus was given to movements in this direction during the administration of President Roosevelt. In years past the timber of the country has been cut and wasted with little regard for the future. Under the United States forest service control there are now over 160,000,000 acres of national forest reserves.[8] By creating these forest reserves the government has checked the great deforestation of the country. Forest

rangers patrol these reservations to prevent fire and theft by lumber thieves. In various parts of the country the service has established reservations where trees suitable to the climate and soil are planted with a view to reforesting devastated regions. The efforts of ex-Chief Forester Gifford Pinchot resulted in the establishment of many such future forest reserves.

Under the reclamation service many arid lands are being reclaimed by means of irrigation. In the performance of this function the government is entering a very important field and is doing a great economic service. Vast areas of desert lands are being rendered suitable for cultivation through the construction of great irrigation canals and reservoirs. The lands reclaimed are sold to settlers, and the funds thus secured used to extend the irrigation projects. In this way hundreds of thousands of acres are being added to the arable land of the country.[6]

An even more important function of the national government in the future will be the conservation of the mineral resources of the country. A start has already been made in the retention by the government of the coal fields of Alaska. During the administration of President Roosevelt thousands of acres of lands with coal and mineral deposits were withdrawn from entry in the western states.

(9) Commercial Functions. One of the most important functions of the government is its regulation of commerce. This, it will be recalled, was one of

the weaknesses of the Confederation. Very broad powers were given to the government by the Constitution in the regulation of commerce, but it is only within the last few decades that the real significance of the meaning of these powers has come to be appreciated. Attention can only be called here to one or two of the activities of government in this direction.

Under the power to regulate commerce, congress has passed rules of navigation, including the "rules of the road at sea." It regulates the handling of vessels, the licensing of pilots, the liability of ship owners; it establishes systems of signals, lighthouses, buoys, life saving stations, docks, canals; it maintains quarantine; it improves rivers and harbors. Since 1882 over $450,000,000 have been spent in such improvements. It has established a system of registering ships and levies tonnage duties. Finally, it has undertaken the construction of the greatest canal in the world — the Panama canal — at a cost of about $400,000,000. Through its power to establish tariff duties it raises nearly half of its revenue, and is able to exert a tremendous influence upon not only the commerce of the country, but upon manufacturing and industry within the country. A change in the tariff may make or ruin an industry. This power, therefore, places in the hands of the government a means of determining to a certain extent the economic conditions of the country.

Through the power to regulate commerce, the government has enacted anti-trust laws. The so-called

Sherman anti-trust law declares illegal all contracts, combinations in the form of trusts or combines, or conspiracies in restraint of interstate trade and commerce. It has met with little success as yet in breaking up the trusts, but its functions in this direction are sure to be greatly extended in the future.

More success, however, has attended its efforts in the regulation of railroads. Through the Interstate Commerce Commission, which was created in 1887, it has succeeded in effectively regulating the business of transportation. It abolished the practice of giving rebates, has reduced rates, and is now undertaking a complete valuation of the physical properties of all railroads in order to more effectively regulate the traffic and improve the service. It has replaced cut-throat competition with government regulation, and has thus stepped in to protect the shipper from the evils of monopoly.

Under the commerce power, congress has also enacted laws regulating immigration and has established immigrant stations and machinery to prevent the country from being flooded with undesirable citizens from other countries.

It also maintains a bureau of manufactures for the purpose of studying and promoting American industries, a bureau of corporations for the purpose of investigating corporate practices and industrial conditions, a weather bureau to assist navigation, commerce,

agriculture and industry by forecasting the weather,[7] and numerous other bureaus too numerous to mention.

These are but a few of the innumerable functions which the federal government has come to perform, and if space permitted the list might be almost indefinitely lengthened. The federal government runs one of the largest printing offices in the world.[9] It has established a museum of natural history — the Smithsonian Institution — which is one of the largest in the world.[10] It maintains a library — the Library of Congress — which is the largest in the Western Hemisphere and the third largest in the world, and which contains over 2,000,000 books and pamphlets.[11] The work of the Geological Survey, the Coast and Geodetic Survey, of the Public Health and Marine Hospital Service, of the Bureau of Chemistry, the Bureau of Animal Industry, the Bureau of Plant Industry, the Bureau of Standards, and the activities of the government in the inspection of foods, the regulation of bankruptcy, and in other lines can only be mentioned. Nor is there space to take up the national parks, federal prisons, and the other properties and institutions of the government — these can only be mentioned. But the mere enumeration of these activities indicates the extent to which the functions of the federal government have grown since the Constitution was adopted. In the performance of many more functions the federal government is better adapted than the state governments to an impartial administration, and it is entirely

probable that the functions of the federal government will continue to expand until many of the economic conditions which are now causing us trouble will be subjected to federal regulation.

SUPPLEMENTARY READING

CHAPTER IV

Federal Functions

[1] **The Consular Service.**— Inasmuch as the consular service is of special importance to the commercial and industrial interests of the country, there has been growing up within recent years a demand for higher standards of efficiency in that branch of public service. As long as the consular offices were regarded as the legitimate spoils of the politician, little attention was paid to real qualifications, and the service was constantly disturbed by rapid changes in the personnel. It is clear that long experience is a most important qualification for a consul. He should be a thorough master of the language of the country in which he is stationed, and a careful student of the markets, the conditions of the export and import trade, and the opportunities for commerce in that country. Finally, inasmuch as his varied and complicated duties must be conducted under an elaborate code of laws, he needs some legal training. It is evident, therefore, that service to a political organization in some inland town or congressional district does not qualify a man to act as the consular representative of the United States.

On his appointment as Secretary of State, Mr. Root took immediate steps toward the reorganization of the American consular system, and largely on his initiative Congress passed, in 1906, a law entitled "An Act to provide for the Reorganization of the Consular Service of the United States." This law classified and graded the consuls in such a way as to enable the President to extend the merit system to that branch of the public service. Under this Act, the President adopted a method by which important vacancies are to be filled either by promotions of men

whose ability has been tested in the service, or by the appointment of candidates who have passed oral and written examinations showing their fitness for the work.— *Charles A. Beard, "American Government and Politics," p. 322.*

[2] **The Monetary System.**— The coining of money is now regarded everywhere as a proper if not a necessary function of government. Under the Articles of Confederation this power was possessed by the States as well as by Congress, though in fact it was exercised by neither. The coin of other countries, particularly of Spain, circulated freely throughout the United States, and was used as the circulating medium. The framers of the Constitution decided that the most effective way of securing a uniform system of money would be to place the whole matter under the control of the national government, and so Congress alone was given the power of coinage. At the same time, remembering how the States had before 1789 flooded the country with paper money which in some instances had become worthless, the framers of the Constitution wisely decided to prohibit them from issuing bills of credit; that is, paper designed to circulate as money. Likewise they were forbidden to make anything but gold and silver coin a legal tender in the payment of debts.

As soon as the new government under the Constitution had gone into operation, steps were taken to provide a system of metallic currency. In 1792, an act was passed providing for the establishment of a mint at Philadelphia and for the striking of both gold and silver coins. The gold coins were to be the double eagle, the eagle, the half eagle, and the quarter eagle; the silver coins were to be the dollar, the half dollar, the quarter, the dime, and the half dime. As the market value of a given quantity of gold bullion was then about fifteen times that of silver, the weight of the silver coins was made fifteen times that of the corresponding gold coins. But as the value of gold bullion presently began to increase in comparison with silver, it was necessary to readjust the ratio so as to keep both in circulation, and so in 1834 the weight of gold coins was reduced and the ratio made sixteen to one.

But soon the increase in the supply of gold again disturbed the ratio, making the silver coins worth more as metal than as money; and as the difficulty of keeping up the adjustment seemed insuperable, Congress decided to abandon the attempt, and so in 1873 the silver dollar was practically "demonetized"—that is, was dropped from the list of coins—and other silver coins were made subsidiary—that is, their weight was decreased so that the metal in them was worth less than their face value, and they were made legal tender for small sums only.

The opposition to the demonetization of the silver dollar, however, became so great that it was restored by the act of 1878 and made full legal tender. But the free coinage of silver was not restored; the act required the government to purchase and coin not less than $2,000,000 nor more than $5,000,000 worth of silver bullion per month. In the meantime the market value of silver had declined until the amount of silver in a silver dollar was worth less than eighty cents in gold, and it was believed that the act of 1878 by increasing the demand for silver would restore its market value. This, however, did not happen, and the market value of silver went on decreasing until at one time the amount of silver in a dollar was worth only about forty-six cents in gold. In 1890 Congress increased the use of silver by requiring the secretary of the treasury to purchase monthly four and one-half million ounces of silver and pay for it with treasury notes which were redeemable in coin at the option of the secretary and which were to be canceled or destroyed when so redeemed. This act was repealed in 1893, since which date the government has purchased very little silver bullion for coinage purposes.

In determining its coinage policy, the government might follow either of two methods: (1) It might coin any and all bullion presented by its owners at the mints, or (2) it might purchase its own bullion and coin only so much as the necessities of trade or other considerations might require. The former policy is that of free coinage; it is also unlimited coinage since it involves the coinage of all bullion offered without limit. From the very first the practice of the government in regard to gold has been

that of free and unlimited coinage; that is, any owner of gold bullion may take it to a mint and have it coined without charge except for the cost of the alloy. Prior to 1873 the same policy was followed in regard to silver, thus maintaining in theory at least a bimetallic or double standard. In 1873, however, Congress abandoned the policy of free coinage of silver and adopted the single gold standard. From then until now the government has coined no silver bullion for private owners.

In addition to the metallic money described above there is a vast amount of paper currency in circulation in the United States. This currency may be classified under four different heads.

First, there are the $346,681,016 of old United States notes or "greenbacks," already described. They were issued during the Civil War, they bear no interest, and are redeemable in coin upon the demand of the holder. Since 1878 the practice of the government has been not to retire them as they are redeemed but to reissue them and keep them in circulation.

Second, there is a large amount of currency in the form of gold and silver certificates. The law under which such currency is issued provides that any owner of gold or silver coin may deposit it in the treasury and receive in exchange an equivalent amount of certificates. They are more convenient to handle than coin, and are equally valuable for paying debts and purchasing commodities. On the 30th of June, 1910, the amount of gold certificates in circulation was $862,936,869; the amount of silver certificates, $489,117,000. These two forms of currency constitute nearly half of our entire stock of money in circulation.

A third form of paper money is the so-called Sherman treasury notes issued in pursuance of the act of 1890 already described. On June 30, 1910, there were $3,672,000 of them in circulation. The law declares that they shall be redeemed in *coin* — that is, either gold or silver — at the option of the government. To prevent the threatened depletion of the gold reserve and provide the necessary gold with which to redeem the increasing issues of Sherman treasury notes, bond issues aggregating $262,000,000 were issued during the years 1894 and 1895. By the act of 1900

the policy of maintaining a single gold standard was definitely adopted by Congress, and it was provided that greenback notes, Sherman treasury notes and other securities of the government should be redeemable in gold.

The fourth class of paper money is national bank currency. A national bank, unlike other banks, not only receives deposits and makes loans and performs the other functions of banks, but also issues notes which circulate as money. In 1910 there were over 7,000 national banks in the United States with an aggregate capital of $1,000,000,000 and with a total circulation of $685,000,000 of notes outstanding. Next to gold and silver certificates this constitutes the largest amount of paper money in existence, and the amount is rapidly increasing.

The total amount of money of all kinds in circulation on June 30, 1910, amounted to $3,106,240,657, or a per capita circulation of $34.93.—*James W. Garner, "Government in the United States," p. 228.*

[3] **Pensions.**— No country in the world has been more liberal in the provision of pensions for soldiers and sailors and those dependent upon them than the United States. A pension system was established as early as 1776. Following every war there is a new pension law, or rather a series of pension laws, making provision for those who have served their country; and payments for previous services are constantly being made more liberal. In 1905, the roll of pensioners reached 1,004,196, the largest in the history of our country; and on June 30, 1908, the number stood at 951,867. By the act of March 4, 1907, Congress appropriated $145,000,000 for pensions, and this was supplemented about a year later by a deficiency appropriation of $10,000,000 more. The total amount actually disbursed in pensions for the fiscal year ending June 30, 1908, was over $153,000,000.

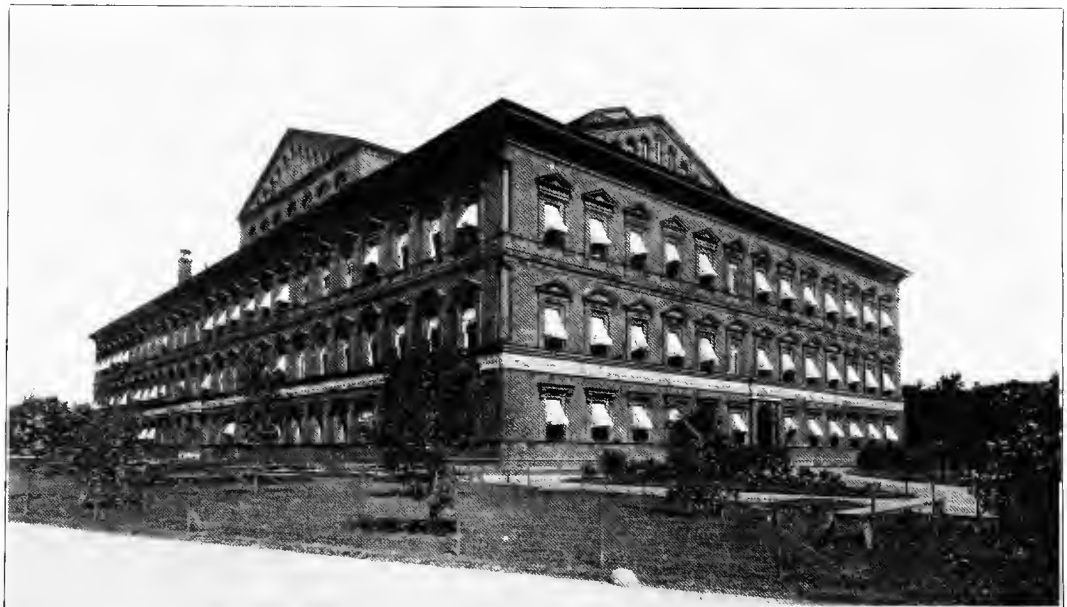
It is not only the soldiers who have seen actual service that are pensioned. Many widows, children under the age of sixteen years, and helpless minors are provided for, and state and national homes are established for the disabled and indigent. It was not until November 11, 1906, that the last surviving widow pensioner of the Revolutionary War died and two daughters of

soldiers in that war were still on the roll in 1908. The last pensioned soldier of the War of 1812 died in 1905, but the roll of that war still contains over 400 widows. On June 30, 1908, there were 620,985 survivors of the Civil War on the pension roll.

The administration of the pensions is in charge of a commissioner in the Department of the Interior.— *Beard, op. cit., p. 354.*

[4] **Rural Free Delivery.**— The extension of rural free delivery service has been the most rapid and remarkable of all the undertakings of the postoffice department. It began as an experiment in 1897, when less than $15,000 was appropriated to test the advantage of free delivery in country districts, and it has been extended until it now constitutes one of the largest branches of the postal service, the annual expenditures on account of the service exceeding $35,000,000. This is the largest item of expenditure by the postoffice department on any of its services except the transportation of mail on the railroads, which foots up over $45,000,000. There are now more than 40,000 rural free delivery routes in operation, and nearly three billion pieces of mail are annually delivered to residents along these routes. An investigation made in 1909 showed that the postage on the average amount of mail collected on a rural route was $14.92 per month, while the average cost of the service was $72.17. The average cost of the service on a rural route, therefore, exceeded the average revenue derived from postage by $687 per year. On that basis the total loss on the operation of the service must have been about $28,000,000. But while the loss to the government in money has been great, the advantage to the country districts served has been notable. Besides the convenience to the country residents it has brought them into closer relation with the centers of population, made country life more attractive and less monotonous, increased farm values, and encouraged the improvement of country roads, since the department insists upon the maintenance of the highways in good condition as a prerequisite to the introduction and continuance of the service.

Free delivery of mail in the larger towns and cities was first introduced during the Civil War, and the service has been ex-



THE PENSION BUREAU, WASHINGTON, D. C.

Which distributes millions of dollars annually to disabled soldiers or their dependents

tended to include all places of not less than 10,000 inhabitants or where the postal receipts are not less than $10,000 per year. In 1885, provision was made by which immediate delivery ("special delivery") of a letter upon its arrival at a city postoffice could be secured by payment of ten cents.—*Garner, op. cit., p. 252.*

[5] **Postal Savings Banks.**— One of the most important extensions of the postal service is the establishment of a system of postal savings banks, authorized by an act of Congress passed in 1910. This service has long been performed by the governments of many other countries, and its introduction into the United States has been strongly recommended by successive postmasters-general for a number of years. The proposition was also indorsed by both of the great political parties in their national platforms. In favor of the proposition it was pointed out that in many communities private savings banks are inaccessible, there being only one such bank to every 52,000 of the population of the country, as a whole; that on account of the popular distrust of private savings banks in many communities, savings were hoarded and hidden and thus kept out of circulation; that on account of the popular confidence in the government the establishment of savings banks under its auspices would cause the money now hidden to be brought out and put into circulation; that it would encourage thrift and economy as well as stimulate loyalty and patriotism among depositors; and that it would improve the conditions of farm life, thus supplementing the work of the rural free delivery service, the telephone, and the interurban trolley car.

The new law for the establishment of postal savings banks provides that any person may deposit with the local postmaster any amount from one dollar up to $500 and receive interest thereon at two per cent per annum. Detailed provisions are made for the investment by the government of the enormous sums that will no doubt be deposited in the postoffices throughout the country. In the beginning one postoffice in each State was selected for experiment, and gradually the number will be extended as suitable arrangements can be made.—*Ibid., p. 254.*

[6] **The Reclamation Service.**— The federal and state govern-

ments at present do little directly to aid in preserving and improving the fertility of the soil; but the experiments in advanced methods of cultivation carried on by the Department of Agriculture, the Experiment Stations, and state agricultural colleges are doing much to show the farmers how to make the best use of their land and at the same time to conserve it for the use of posterity. Science will become the servant of agriculture as well as of industry.

While lending this aid to improving the methods of agriculture, the federal government is widening the public domain by reclaiming arid and semi-arid lands through gigantic irrigation undertakings. The Newlands Act of June 17, 1902, authorized the Secretary of Interior to undertake the work of reclamation on a large scale. The fund for the work consists of the proceeds from the sale of the public lands in certain states. The lands made available by irrigation are sold, in small tracts, to actual settlers, who pay the price in annual instalments, thus restoring to the reclamation fund the money that is laid out. Up to June 30, 1908, the sum of $50,661,549.27 had been paid into the fund from all sources.

The work is done by the Reclamation Service, which is in the Department of the Interior. Reservoirs, drains, canals, etc., are constructed by the government, and from them the settlers can draw water by means of ditches to irrigate their farms. A large number of projects have been undertaken, some of them requiring engineering skill of a high order. One of the most interesting of these is the Shoshone project in Wyoming, which contemplates the erection of a dam over 300 feet high. The first six years of the reclamation work resulted in making 767,958 acres fit for settlement, out of which 424,549 acres were actually irrigated.

Some of the states are also carrying on similar work. For Idaho has undertaken stupendous projects. It has constructed one of the largest irrigation canals in the world and rendered arable more than 300,000 acres of barren waste. It has entered into contracts for the construction of large storage reservoirs to control flood waters. Utah is financing a number of reclamation projects. Missouri and Florida are carrying on large drainage

operations, while New Jersey is ditching and filling in marsh lands.— *Beard, op. cit., p. 408.*

[7] **The Weather Bureau.**— It is the duty of the weather bureau to record the climatic and meteorological conditions and to gauge the principal rivers throughout the United States; to prepare and distribute weather reports; and to issue forecasts of weather changes and floods, for the benefit of agriculture, commerce and navigation. In connection with these duties it performs a continuous scientific investigation into the conditions and causes of meteorological changes, for the purpose of increasing the reliability and range of its forecasts.

To carry on this work the bureau has a large number of local agencies. There are about 200 stations, fully equipped for making complete records throughout the United States and at various points in the Caribbean Sea. There are also many other stations where records of temperature and rainfall are made; and over 3,000 posts where voluntary observers make and report observations of temperature and rainfall with standard instruments. Records of local observations taken at the same time are telegraphed to Washington and various district centers; and are the basis for reports and forecasts for different sections of the country. For the most part private telegraph lines are used for transmitting reports; but over 400 miles of telegraph and cable lines have been constructed by the bureau to special points.

For the distribution to the public of the weather reports and forecasts, the bureau has 250 stations for the display of storm and cold wave warnings; while over 2,000 places receive forecasts daily by telegraph or telephone at government expense, and more than 200,000 forecasts are issued daily by telephone, telegraph and mail without expense to the government.— *Fairlie, op. cit., p. 223.*

[8] **The Forest Service.**— The national government is a large proprietor of forests. About 22 per cent of our forest area is to be found on the public domain, and it is the duty of the government to pursue proper methods of conservation in so far as those timber lands are concerned.

The same short-sightedness that we have described in connec-

tion with the rest of the national domain has been found in the past in the treatment of public forests. Large areas have been permitted to get into private hands through the sheer unwillingness of Congress to face the situation. Under the so-called timber and stone acts,—the repeal of which is being strongly urged,—5,000,000 acres of timber land on the public domain were sold from 1901 to 1906 to private individuals for $2.50 an acre, or for less than $13,000,000, when their actual value was more than $100,000,000.

Of late years, however, large tracts of forest lands have been withdrawn from entry and erected into National Forests. They have been placed under the jurisdiction of the Forest Service, which is in the Department of Agriculture. These forests cannot be indiscriminately cut, and they are properly cultivated and cared for. In addition to this, many forest fires have been prevented by the efficient work of the Forest Service.—*Beard, op. cit., p. 412.*

[9] **The Government Printing Office.**— Probably the largest printing and binding establishment in the world is the United States Government Printing Office. This does all the printing and binding not only for every branch of the national administration but also for both houses of Congress and for the national judiciary, except that done by the Bureau of Engraving and Printing in the Department of the Treasury. This includes the Congressional Record, published daily during the sessions of Congress, with a stenographic report of the debates and proceedings; the reports of the various administrative bureaus and departments, which are also republished with the reports of committees of Congress in the series of Congressional documents; the decisions and opinions of the United States courts; and the great variety of blank forms and other stationery for the different government offices. Several thousand persons are employed, and the expenditures now exceed $6,000,000 a year. There is no doubt that this is an extravagant outlay. There is no effective means of limiting the amount of printing, and a great deal of useless material is published.

In general charge of the printing office is the Public Printer.

He appoints, under the rules of the Civil Service Commission, the officers and employees, and purchases the necessary machinery and material. But he has no control over what may be printed or how many copies of each document. Under his direction the principal officers are a chief clerk, who has general supervision of the clerical force, a foreman of printing and a foreman of binding. There is also a Superintendent of Documents, who prepares an index to the public documents, and has charge of their distribution and sale, except those assigned to the members of Congress and to the various administrative departments and bureaus.— *Fairlie, op. cit., p. 258.*

[10] **The Smithsonian Institution.**— The Smithsonian Institution originated from a bequest of James Smithson, an English scientist, who on his death in 1829 left his entire estate (which has amounted to three quarters of a million dollars) to the United States to found "an establishment for the increase and diffusion of knowledge among men." The new institution was not definitely organized until 1846. It has published the results of many scientific investigations, and has carried on important scientific experiments. It has established a national museum, the foremost collection in the world in the natural history, ethnology, geology and paleontology of the territory now included in the United States. The American Historical Association presents the annual reports of its proceedings to the Smithsonian Institution, and thus secures their publication as Congressional documents. Attached to the institution are several bureaus supported by the national government,— the bureau of American Ethnology, the astrophysical observatory and the national zoölogical park. For the support of these about $500,000 is appropriated each year, in addition to the private income of the institution, which amounts to about $60,000.

In the act establishing the institution it is provided that the President and his cabinet shall be members of the institution. The governing body is a board of regents, composed of the Vice-President of the United States, the Chief Justice of the Supreme Court, three United States Senators, three members of the House of Representatives, and six others selected by Congress.

The chief executive officer is the secretary,— who is a permanent official, the present secretary being the third since the establishment of the institution. All of the officers are selected for their qualifications as scientific students, and political reasons have never been considered in their appointment.— *Ibid., p. 261.*

11 **The Library of Congress.**— While its name and its early history indicate that the Library of Congress is simply a collection of books for the use of the legislative branch of the national government, its organization and functions at the present time make it in fact a national library and a part of the national administration.

The beginning of the library dates from 1800. In connection with the removal of the national government to Washington, provision was made for the purchase of books to be kept in the Capitol for the use of the members of Congress. This collection had increased to 3,000 volumes when it was destroyed in the burning of the Capitol in 1814. A new start was made by the purchase of the library of ex-President Jefferson. This increased gradually, mainly by purchases, to 55,000 volumes in 1851, when two-thirds of the collection was lost by another fire.

Since then the library has developed much more rapidly. Appropriations were made by Congress from time to time to make specific purchases. After 1846 a copy of each book copyrighted in the United States was required to be deposited with the library. A system of international exchanges of public documents was established. In 1866 the library of the Smithsonian Institution was transferred to the library of Congress. And a number of important private collections were presented to the library.— *Ibid., p. 258.*

QUESTIONS FOR REVIEW. PART V

1. What early attempts were made to form a union between the colonies? Describe the government under the Articles of Confederation. What were the defects of the confederation government? In what way did the constitutional convention exceed its powers? What great compromises did the convention execute? How was the constitution ratified? How may it be amended? In what ways has the constitution been developed and expanded?

2. What were reasons which led to the creation of a congress with two houses? What are the qualifications of a senator? Of a member of the house of representatives? What powers does the senate possess which the house does not? What special powers does the house possess? How are committees selected in each house? Why is the speaker such an important political personage? Describe the process by which a bill becomes a law. Describe the federal system of courts.

3. Discuss the president's power of appointment. How does it work out in practice? Discuss his powers and duties in connection with foreign affairs. What other powers does he exercise? Discuss the nature of the cabinet. How does it differ from the English

cabinet? What are duties of the secretary of state? Of the secretary of war? Describe the organization of the department of the interior. Over what different bureaus does the secretary of agriculture have charge?

4. What do you understand by the theory of "implied powers?" Describe the consular service. From what sources does the United States receive its revenue? What control does the federal government exercise over national banks? Describe the organization of the army and navy. Describe the activities of the post office department. Explain patents and copyrights. What is the government doing in the way of conserving natural resources? What other functions does it perform?

SUBJECTS FOR SPECIAL STUDY

1. "The Democratic Mistake," by Arthur George Sedgwick.

2. "The Business of Congress," by Samuel W. McCall.

3. "Political Problems of American Development," by Albert Shaw.

4. "The Conservation of National Resources," by Charles R. Van Hise.

5. The Panama Canal.

6. United States irrigation projects.

7. The United States as a world power.

8. The Parcels Post; the Postal Savings Banks; etc.

9. Our insular possessions.

Photograph by Underwood & Underwood

THE PANAMA CANAL NEARING COMPLETION

General view of the upper locks at Gatun. These locks are 1000 feet long and 110 feet wide, and will be supplied with water from the great new Gatun Lake

PART VI

Extra-Governmental Agencies—Parties, Elections, and Reforms

CHAPTER V

POLITICAL PARTIES

THUS far we have confined our discussion to a description of the constitutional framework, the legally constituted machinery of the American system, local, state, and national. But were we to end our discussion here, the reader would have a distorted picture of the government as it actually works in practice. A government is composed not only of the body of laws by which we are governed, but of the personnel, the group of officials who operate the system and administer the laws. As the character of the government depends not only upon the system, but upon the kind of officials selected, the method of selection and the organization which determines its operation becomes one of the most important factors of government. In all republican or representative governments these functions are performed by political parties, and to understand the working of the government a knowledge of party organization and party methods is essential. As

many writers on government have pointed out, we may know all the provisions of the state and national constitutions, all statutes and the plans of organization, we may know the duties of all officers and be familiar with the decisions of all the courts—in fact, we may have an intimate knowledge of all the laws and the theory of government, and still fail absolutely to understand the government as a going concern, unless we are also familiar with party organization and party methods.

This fact was not appreciated by the framers of the constitution. They were opposed to political parties and factions and tried to design a government in which they would be not only unnecessary but impossible.[1] The constitution is full of devices intended to break the force and influence of the majority faction, and to secure deliberation in governmental processes. Thus the two houses of congress were constituted in different ways and selected by different methods. Thus the president was elected by an electoral college, so constituted, they thought, as to choose a president after the most careful deliberation and as a result of the best judgment of the distinguished members of the college. Washington, in his farewell address, admonished congress against the growth of partisan factions, and Madison thought one of the most admirable features of the constitution was "its tendency to break and control the violence of faction." "The friend of popular governments," he said, "never finds himself

so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice." But at the very time that these utterances were being made the people of the new government were alligning themselves into two great parties, and those statesmen who were loudest in their declamations were unconsciously assuming their leadership.

(1) The Necessity of Parties. Instead of devising a system of government which would make parties unnecessary, the framers of the constitution designed a frame of government in which the presence of parties was made absolutely essential to the operation of the system. They devised a system which has, as we have seen, for its fundamental principle the separation of powers. The national legislature is divided into two separate and independent houses, differently elected and constituted. The legislature is, in general, separate from the executive, although the assent of the president is virtually essential, and the judiciary is separate from both. A law to be enacted must be approved and passed by both houses of congress separately and then approved by the president, or passed by a two-thirds vote over his veto. Thus to secure the enactment of laws both houses of congress and the president must be brought into harmony. To do this the political party has developed.[2] In other words, the political party has developed to overcome the theory of the separation of powers; it unites and brings into harmony the various agencies of government which are

constitutionally separate, in order that they may perform their functions, and that the machinery of government may run smoothly. If the president and a majority of both houses of congress all belong to the same party, are all of like opinion upon the issues of the day and hold the same beliefs with regard to administrative and legislative policies, then the enactment of legislation along those lines is easy. But if the president and a majority of either house are of a different party and of different beliefs, as has frequently been the case, and cannot be brought into harmony, legislation along any line becomes difficult. The political party is therefore necessary to see that this harmony exists. Since provision is not made in the constitutional system to secure control by the government, as in parliamentary governments, this control has developed in the party system, and the party takes upon itself the duty of seeing that men are elected to governmental positions who are in harmony with the general principles to which it is devoted.

Under our system of delegated powers, where the powers of government are divided between the state and the nation, the political party is further necessary to bring the various state governments and the national government into harmony. In many ways it is necessary for the state and national governments to work together, and to coöperate in matters of legislation and administration, and here again the political party steps in to secure the necessary harmony. It sees that rep-

resentatives of the state government are in harmony with the representatives of the national government. As Professor Beard has expressed it, "If a party has a systematic and rational policy with regard to the important questions of our day relative to railway, insurance, and trust regulation, it must embrace within its plans federal and state laws, and in order to realize completely its policy, it should be strong enough to control state and national legislatures."

Then the influence of the political party has been strengthened and entrenched by the practice of electing nearly all officials by popular vote. The American people have always been great advocates of government by the people, and they have thought that one of the best ways to bring this about is to let the people select all public officers. The result has been that the voter is called upon to elect so many officers at each election that he must depend upon someone for advice, since he cannot be personally acquainted with the merits of all candidates. The party has assumed this function. It nominates the candidates and the members of the party usually vote for them without question. Thus in states where one party is dominant, nomination to an office is equivalent to election. Such practices have placed the party in possession of the reins of government.[3]

(2) Existing Parties. It is not surprising, therefore, that parties originated immediately after the constitution went into effect. All were unanimous in the

choice of George Washington as president, but soon thereafter differences in opinion arose. The government was largely in the hands of those great leaders in the constitutional convention who favored the creation of a strong federal government. These soon came to be called by their opponents "Federalists." They favored a liberal interpretation of the constitution and an expansion of the federal powers. They comprised the wealthier and more conservative class and in foreign affairs favored England rather than France. Their opponents favored a strict construction of the constitution, the narrowing of the activities of the federal government to only those absolutely essential, and the rule of the common people. From their sympathy with the republicanism of France they came to be called "Republicans" or "Democrats." The Federalists remained in power until 1801, but in that year the Republicans came in and remained in power till the new alignment of parties came with the election of Andrew Jackson, "Old Hickory," and two new parties were ushered in. The old Republican party became the Democratic party and has continued with various modifications in its policies down to the present time. In general, it has stood for strict construction of the constitution, states' rights, free trade in foreign commerce, the free coinage of gold and silver, and has opposed the extension of our insular possessions. The Federalists merged into the National Republican or Whig party and elected three presidents — Harrison,

Taylor, and Fillmore. Following the death of its great leaders, Daniel Webster and Clay, and discredited by the compromise of 1850, the Whig party disappeared and was replaced by the present Republican party. The Republican party came into power with the election of Lincoln, and, with the exception of the two terms held by Cleveland, remained in power from the Civil War to the election of President Wilson. In general, the Republican party has continued the policies of the Federalists and Whigs. It advocates liberal construction, a protective tariff, the gold standard, governmental regulation, the extension of our insular possessions, the taxation of incomes, and the conservation of our national resources.

There have been many minor parties, but they have never succeeded in electing a president or controlling congress. The two great parties have remained the Democratic and Republican parties. But at the last election a new party was formed, called the "Progressive" party, which was headed by Ex-President Roosevelt, and may figure in the future. It succeeded in polling more votes at the election than did the regular Republican party. This party was composed of the most progressive wing of the old Republican party and advocated most of the so-called progressive measures.[4]

(3) Party Organization. In order to carry on all these activities which we have attributed to the political party, it must have an organization. In many

states this organization has been so perfected and has been so successful in carrying out its policies that it has come to be known as a "machine."[5] The two principal agencies in the management of the party are the convention and the committees. The directing force in the party is the convention, which is a representative gathering composed of delegates chosen by the members of the party directly or by local conventions. There is a national convention, state conventions, county conventions, and district conventions, and these conventions are differently constituted. The national convention is made up of so many delegates from each state; the state convention is usually made up of delegates from the counties, legislative districts, or other local units; and the county convention is made up of delegates from the various divisions of the county. In large cities there are frequently city conventions made up of delegates from the wards or voting precincts. These conventions perform for the party the functions performed for the town by the town meeting. It elects the chairman, determines the policy of the party, formulates its principles and sets them forth in the platform, appoints a central committee, and in many states nominates the party candidates for office. It is the supreme representative authority of the party in that district.

But these conventions meet only at stated intervals, and it is necessary to have committees to manage the affairs of the party in the meantime. The committees

call the conventions, manage the campaigns, organize political clubs, and look after the general interests of the party. There is a national committee elected every four years by the national convention and composed of one representative from each state and territory; a state central committee composed of a delegate from each congressional district, or legislative district, or other division; a county committee composed of delegates from its local divisions, etc. All of these various committees keep in touch with each other, so that there is a carefully organized system of party management extending from the national committee to every city, town, and village in the land, and each party is organized in this manner.

As has been already pointed out, the constitution is silent on the subject of political parties. It was intended that the people should all come together without previous arrangement and vote on election day for the person whom they thought best qualified for the office. No provision was therefore made for nominations; each voter was to vote for his own choice. But those interested in the candidacy of a certain person soon got together and came to an understanding before the election and concentrated their influence on the election of that person, and thus one of the principal purposes of the political party came to be the nomination of candidates for office. At first their practices were unregulated by law, but now all states prescribe the manner in which nominations shall be made,

and regulate to a large extent the activities of political parties in connection with elections."

(4). Methods of Nomination. The earliest method of nomination in the local districts was by mass meeting, but as these grew large and unwieldy they were replaced by the local convention. In state nominations the members of the party in the legislature soon gathered in what was known as the "legislative caucus" and nominated the state officers, but this greatly handicapped the minority members, and also tended toward a monopoly of the function.[7] The caucus therefore soon became very unpopular and was replaced by the nominating convention already described, but not until after the congressional caucus had been adopted as a method of nominating national officers — president and vice-president. Finally the congressional caucus, which was composed of the members of the party in congress, was replaced by the national convention.[8] The wave of democracy which carried Andrew Jackson to the presidency destroyed "King Caucus" and established the convention system. But in many states a caucus was held together with the convention and undermined the convention in great measure. That is, the controlling members of the convention would meet in caucus before the convention and fix up a slate which they would put through the convention before the majority of the members realized what was going on. The convention was therefore replaced in many states by the primary, or direct primary as it is called.

But the method of nomination by convention is still followed in a great many states.

Still a third way of nomination is nomination by petition. We therefore have three common ways of making nominations: By convention, by direct primary, and by petition.

(5) The Primary. At first each party determined the manner of constituting its own nominating convention. The state did not interfere because it held that it was not a matter for state regulation, being only of interest to the party. But the extension of party influence soon demonstrated that the people could not exercise a free choice on election day, if they could vote for only one man out of several, none of whom were nominated by their votes. If satisfactory men were to be elected to office, it became evident that satisfactory men must be nominated. As a means to this end the state governments stepped in to regulate the selection of delegates to the nominating conventions. Now all states have laws regulating these "primary elections," as they are called, because these are the first elections at which the voter is given an opportunity to express his choice. At these elections delegates to the nominating conventions are chosen. All states now have laws regulating the holding of primary elections. These laws usually require that the primaries of all parties shall be held on the same day and at the same place, and under the same rules as regular elections. At these elections only members of the party

OFFICIAL PRIMARY BALLOT

NINTH WARD
CITY OF MADISON
March 18, 1913

To vote for a person whose name is printed on the ballot, make a cross (X) after his name in the proper column as follows:

Mark your First Choice with a cross (X) in the First Choice column;

Mark your Second Choice with a cross (X) in the Second Choice column.

To vote for a person whose name is not printed on the ballot, write his name in the blank space under the printed names and mark your First and Second Choice as above.

Vote for one first choice and one second choice.

ALDERMAN	First choice. Vote for one	Second choice. Vote for one.
PETER A. GUNKEL.....		
WILLIAM JOHN BUERGIN, JR.		
JOSEPH A. RUPP.....		
ALEX. O'NEILL.....		
JOHN C. MARTIN.....		
.....		

Vote for one first choice and one second choice.

SUPERVISOR	First choice Vote for one	Second choice Vote for one
HENRY M LOCHNER.....		
PETER FABER.....		
.....		

OFFICIAL BALLOT FOR A PRIMARY ELECTION

can vote for delegates to the party convention. Laws, therefore, usually prescribe certain party tests to prevent the members of one party from voting for candidates on the other party ticket.[9]

(6) Nomination by Convention. The delegates elected at the primary election go to the nominating convention on the proper day and the convention is called to order by the chairman of the party committee,

after which the temporary chairman is selected. The temporary chairman is usually the party leader and usually outlines the policies of the party in his speech of acceptance. The various committees are then appointed — credentials, rules, organization, etc. — and, after transacting any other business that the convention has on hand, it proceeds to the nomination of the party's candidates for the offices to be filled at the regular election. The names of the candidates are presented to the conventions by nomination speeches and then votes are taken until some candidate has a majority. The principal objection to the convention method of nomination is the opportunity which it offers to political bosses and factions to put through slates and deals which defeat its primary purpose — a free choice of candidates for the nomination.

(7) Nomination by Direct Primary. Popular dissatisfaction with the convention system has led to the adoption of the direct primary as a means of making nominations in many states. Under the direct primary the voter votes directly for the candidate instead of for a delegate to the nominating convention. The candidate receiving the largest number of votes at the primary is therefore declared nominated and his name is placed on the election ballot as the party candidate or nominee for the office to be filled. A common way of arranging the ballot is for a separate ballot to be printed for each party and then these ballots attached together. The voter is given one of these combined

ballots and enters the voting booth, where he detaches the ballot he desires to vote, marks it, folds the ballot he votes and the other ballots separately, and then deposits his vote in the ballot box, and the other ballots in a box for discarded ballots. In this way the election inspectors are unable to tell which party ticket he voted, but can see that he votes but one. The direct primary is less easily manipulated than the convention, but it is sometimes expensive for the candidates, who in the case of state offices have to canvass the entire state.[10] On the whole, however, it has given satisfaction in all states that have adopted it.

(8) Nomination by Petition. Some states provide for nomination by petition. The friends of the candidate circulate a petition requesting that his name be placed on the ballot as a candidate for a certain office. This petition is signed by the required number of electors and is then filed with the proper officer, and this constitutes the nomination. For a state office the petition may have to be signed by several thousand names, but for local officers the number is usually small. A common way of determining the number of signatures required is to take a percentage of the number of votes cast in the district at the last election. This method is frequently used to name the candidates whose names are to appear on the primary election ballot.

While in most states most elections are partisan, a few states now provide for non-partisan elections. In

such states the parties do not nominate separate candidates, but all candidates' names are placed in the same column. The two receiving the highest number of votes are declared nominated, and their names are the only ones that appear on the regular election ballot for that office. In this way one candidate always receives a majority vote at the election.

After the candidates for office are nominated, the activities of the parties are directed toward the election of their candidates at the following election. In former times these activities of the party were unrestricted, but most states now have laws regulating to some extent the methods of the campaign and forbidding certain practices. It is everywhere illegal to pay a voter for his vote, or to offer other inducements to corrupt his ballot. In many states corrupt practices acts have been passed which limit the amount of money which any candidate may spend to secure his election, forbid the use of carriages, treating, the employment of poll workers, and in many other ways regulating the conduct of campaigns in order to preserve the purity of elections.

SUPPLEMENTARY READING

CHAPTER V

Political Parties

[1] **Early Opposition to Parties.** — I have already intimated to you the danger of Parties in the State, with particular reference to the founding of them on Geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the Spirit of Party, generally.

This Spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all Governments, more or less stifled, controlled or represented; but, in those of the popular form, it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissesion, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries, which result, gradually incline the minds of men to seek security and repose in the absolute power of an Individual: and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of Public Liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight), the common and continual mischiefs of the spirit of Party are sufficient to make it the interest and duty of a wise People to discourage and restrain it.

WHERE MUCH OF OUR MONEY IS MADE

The United States Mint, Philadelphia, Pa.

It serves always to distract the Public Councils, and enfeeble the Public administration. It agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one part against another, foments occasionally riot and insurrection. It opens the doors to foreign influence and corruption, which find a facilitated access to the Government itself through the channels of party passions. Thus the policy and the will of one country, are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the Administration of the Government, and serve to keep alive the Spirit of Liberty. This within certain limits is probably true—and in Governments of a Monarchical cast, Patriotism may look with indulgence, if not favor, upon the spirit of the party. But in those of the popular character, in Governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose, and there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched; it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.—*Washington's farewell address, quoted in C. L. Jones, "Readings on Parties and Elections," p. 36.*

Among the numerous advantages promised by a well constructed union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments, never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice, and confusion, introduced into the public councils, have in truth, been the mortal diseases under which the popular governments have everywhere perished; as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions

on the popular models, both ancient and modern, cannot certainly be too much admired; but it would be an unwarrantable partiality, to contend that they have as effectually obviated the danger on this side, as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party, but by the superior force of an interested and overbearing majority. . . .

By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction: The one, by removing its causes; the other, by controlling its effects. — *Madison in "The Federalist," quoted in Jones, op. cit., p. 28.*

[2] **Politics and Administration.** — The function of politics, it has been shown, consists in the expression of the will of the state. Its discharge may not, however, be intrusted exclusively to any authority or any set of authorities in the government. Nor on the other hand may any authority or set of authorities be confined exclusively to its discharge. The principle of the separation of powers in its extreme form cannot, therefore, be made the basis of any concrete political organization. For this principle demands that there shall be separate authorities of the government, each of which shall be confined to the discharge of one of the functions of government which are differentiated. Actual political necessity, however, requires that there shall be harmony between the expression and execution of the state will.

Lack of harmony between the law and its execution results in political paralysis. A rule of conduct, i. e., an expression of the state will, practically amounts to nothing if it is not executed.

It is a mere *brutum fulmen*. On the other hand, the execution of a rule of conduct which is not the expression of the state will is really an exercise by the executing authority of the right to express the state will.

Now in order that this harmony between the expression and the execution of the state will may be obtained, the independence either of the body which expresses the state will or of the body which executes it must be sacrificed. Either the executing authority must be subordinated to the expressing authority, or the expressing authority must be subjected to the control of the executing authority. Only in this way will there be harmony in the government. Only in this way can the expression of the real state will become an actual rule of conduct generally observed.

Finally, popular government requires that it is the executing authority which shall be subordinated to the expressing authority, since the latter in the nature of things can be made much more representative of the people than can the executing authority.

In other words, practical political necessity makes impossible the consideration of the function of politics apart from that of administration. Politics must have a certain control over administration, using the words in the broad senses heretofore attributed to them. That some such relation must exist between the two ulimate functions of government is seen when we examine the political development of any state.

If, in the hope of preventing politics from influencing administration in its details, the attempt is made to provide for the legal separation of the bodies of the government mainly charged with these two functions respectively, the tendency is for the necessary control to develop extra-legally. This is the case in the American political system.

The American political system is largely based on the fundamental principle of the separation of governmental powers. It has been impossible for the necessary control of politics over administration to develop within the formal governmental system on account of the independent position assigned by the constitutional law to executive and administrative officers. The control has therefore developed in the party system. The American

political party busies itself as much with the election of administrative and executive officers as it does with the election of bodies recognized as distinctly political in character, as having to do with the expression of the state will. The party system thus secures that harmony between the functions of politics and administration which must exist if government is to be carried on successfully. — *F. J. Goodnow, "Politics and Administration," p. 23.*

[3] **The Necessity of Strong Parties.** — The way in which the several branches of the federal government have been separately organized and given efficiency in the discharge of their own functions has only emphasized their separation and jealous independence. The effective organization of the House under its committees and its powerful speaker, the organization of the Senate under its steering committees, the consolidation of the executive under the authority of the President, only render it the more feasible and the more likely that these several parts of the government will act with an all too effective consciousness of their distinct individuality and dignity, their distinct claim to be separately considered and severally obeyed in the shaping and conduct of affairs. They are not to be driven, and there is no machinery of which the Constitution knows anything by which they can be led and combined.

It is for that reason that we have had such an extraordinary development of party authority in the United States and have developed outside of the government itself so elaborate and effective an organization of parties. They are absolutely necessary to hold things thus disconnected and dispersed together and give some coherence to the action of political forces. There are, as I have already explained in another connection, so many officers to be elected that even the preparation of lists of candidates is too complicated and laborious a business to be undertaken by men busy about other things. Some one must make a profession of attending to it, must give it system and method. A few candidates for a few conspicuous offices which interested everybody, the voters themselves might select in the intervals of private business; but a multitude of candidates for offices

great and small they cannot choose; and after they are chosen and elected to office they are still a multitude, and there must be somebody to look after them in the discharge of their functions, somebody to observe them closely in action, in order that they may be assessed against the time when they are to be judged. Each has his own iittle legal domain; there is no interdependence amongst them, no interior organization to hold them together. There must, therefore, be an exterior organization, voluntarily formed and independent of the law, whose object it shall be to bind them together in some sort of harmony and coöperation. That exterior organization is the political party. The hierarchy of its officers must supply the place of a hierarchy of legally constituted officials. — *Woodrow Wilson, "Constitutional Government in the United States," p. 206.*

[4] **Minor Parties.** — Besides the Democratic and Republican parties, there are several minor parties with organizations of a national character. The oldest of these is the Prohibition party, organized in 1872 to promote the movement for the abolition of the manufacture and sale of intoxicating liquors. Since its organization, it has regularly nominated candidates for President and Vice President of the United States, and in many states it nominates candidates for state offices and for the legislature. Not infrequently it has succeeded in electing some of its candidates to the legislature, and it has been instrumental in securing the enactment of local option laws and even statewide prohibition in several states.

The Socialist Labor Party, organized in 1892, advocates government ownership of land, railways, telegraph lines, and other means of production, transportation, and distribution. The Socialist Party, organized in 1904 mainly from the Socialist Labor Party, advocates essentially the same views. At the elections of 1910 it cast 730,000 votes throughout the country and elected one member of Congress.

The People's Party, sometimes known as the Populist Party, was organized in 1892 and is composed largely of farmers who favor the free coinage of silver, an increase of the amount of money in circulation, the prohibition of national banks from

issuing notes, the establishment of postal savings banks and a parcels post system, wider extension of the initiative and the referendum, and government ownership of railroads, telegraphs, and telephones. For several years after the organization of this party it has a large number of followers and succeeded in controlling several states and sending a number of representatives and senators to Congress. Since 1896, however, it has declined, and at the presidential election of 1908 it cast only a small vote for its candidate for President. — *James W. Garner, "Government in the United States," p. 147.*

[5] **The Political Machine.** — The "political machine" must be distinguished from the political party. The theoretical purpose of the Machine is to organize the adherents of a party so that their full strength may be exerted in behalf of the principles which they maintain. Its actual purpose in many cases is to obtain and control for the profit of its members the offices which carry with them the powers delegated by the voters. If it can get possession of these powers in no other way, it often steals them by falsifying the will of the voters as expressed in the elections, and to this end it does not hesitate to resort to fraud, bribery, and intimidation. The main purpose of the election laws, aside from providing a method of voting, is to prevent this falsification. — *Robert H. Fuller, "Government by the People," p. 3.*

[6] **Evils of the Election System.** — Under the election system as it existed during almost the whole of the last century, there was comparatively little legal regulation of the method by which the voters expressed their will at the polls.

There was no secrecy in voting. Ballots were prepared by the various parties at their own expense and each party had a separate ballot which might be printed on any kind of paper, so that even when folded its outward appearance clearly indicated its contents.

The dominant party appointed a majority of the election officials and thus controlled the casting and counting of the ballots.

There was no means of identifying the voters, and the registry lists were filled with fictitious names.

Party "workers" were permitted to accompany voters to the polls and to prepare their ballots for them.

The ballots were distributed by unofficial Machine agents in and around the polling places.

The party "workers," plentifully supplied with money, stationed themselves in the saloons, which were everywhere permitted to remain open, and bought votes either with liquor or with cash without pretence of concealment.

The "heeler" marched the purchased voter to the polls, watched him deposit his ballot, and saw that he received the price agreed upon — usually two or three dollars.

Organized gangs of "repeaters" were led from one polling place to another to vote upon fictitious names, the names of dead men, and even upon the names of actual voters who had not yet cast their ballots.

"Tissue ballots," printed upon thin paper, were folded together and placed in the box as one ballot. This was known as "stuffing."

Party adherents often formed in line at the polling place on pretense of waiting to vote and held their positions until the polls had closed so as to prevent the opposition from voting at all.

The police, controlled by the dominant party, became its accomplice instead of enforcing the law. The policemen stationed at the polls permitted voters to be beaten and driven away and murder was not infrequent. Gangs of roughs were regularly employed for this branch of the work.

After the polls had closed, the supporters of the dominant party took possession of them, excluding everybody else, and made the count what they pleased, destroying ballots and forging false returns.

As soon as the ballots had been "counted" they were used to feed the bonfires of the victors, thus removing the evidence which might have betrayed the fraud.

By the employment of such criminal practices the result of the election as officially announced was often perverted to the extent

of many thousands of votes. In addition, the party name and organization were usurped and held by the "boss," who was thus enabled to perpetuate his own power.

Caucuses to elect party officials and to choose delegates to party conventions were held in secret places without notice to the party voters. These secret caucuses elected only the adherents of the "boss" to the places of party power and honor and chose delegates who would be obedient to him. If, by any chance, delegates opposed to the "boss" were chosen to attend a party convention, a nod from him was sufficient to cause them to be unseated and ejected. — *Fuller, op. cit., p. 4.*

[7] **The Legislative Caucus.** — The parties before long found a permanent basis for their extra-constitutional existence in the constitutional fabric itself — in the State Legislatures and then in the Congress of the United States.

For the elective offices bestowed in each State by the whole body of its voters, such as the posts of Governor and Lieutenant-Governor or the functions of presidential electors, a preliminary understanding as to the candidates could only be suitably effected in a single meeting for the whole state. But to organize such general meetings was by no means easy in ordinary times, both on account of the means of communication in those days, which made a journey to the capital of the State a formidable and almost hazardous undertaking, and of the difficulty of finding men of leisure willing to leave their homes for the discharge of a temporary duty. However, men trusted by the voters of the State were already assembled in the capital as members of the Legislature. Were they not in the best position for bringing before their constituents the names of the candidates who could command the most votes in the State? Acting on this idea the members of the State Legislatures laid hands on the nomination of the candidates to the State offices. The members of both Houses belonging to the same party met semi-officially, generally in the legislative building itself, made their selections, and communicated them to the voters by means of a proclamation, which they signed individually. Sometimes other signatures of well-known citizens who happened to be in

the capital at that moment were added, to give more weight to the recommendation of the legislators.

This practice of recommending candidates for the State rapidly became general in the whole Union. After 1796 it appears as a settled practice in all the States. The electoral body acquiesced in it with a fairly good grace. The Legislature, after all, represented the most important elements of that body; it had a plentiful share of the men of the old "ruling class" who were still regarded as the natural leaders of society, and by the side of them an ever-growing proportion of young politicians thrown up by the democratic leaven which was continuously agitating the country. The private character of the semi-official meetings in question held by the members of Legislatures got them the nickname of Caucus, by analogy with the secret gatherings of the Caucus started at Boston before the Revolution. The name of "Legislative Caucus" became their formal title in all the States. — *M. Ostrogorski, "Democracy and the Party System," pp. 6-7.*

[8] **The Congressional Caucus.** — A similar institution was soon founded within the Congress itself. For some time past the Federalist members of Congress, and the Senators in the first place, had been in the habit of holding semi-official meetings, to which the familiar name of caucus was applied, to settle their line of conduct beforehand on the most important questions coming before Congress. The decisions arrived at by the majority of the members present were considered as in honor binding the minority, and thus imparted to their confabulations a moral authority and almost a legal title. At the approach of the presidential election of 1800 the members of the Federalist party in Congress seized upon a matter which was entirely beyond the competence of Congress; they undertook to nominate the candidates for the Presidency and the Vice-Presidency of the Union, and endeavored through their personal influence to get them accepted by the Electors. The Caucus wrapped all its proceedings in profound secrecy. It provoked, nevertheless, the protestations of the opposition, which demanded the "Jacobinical conclave" and "the arrogance of a number of Congress to

assemble as an electioneering caucus to control the citizens in their constitutional rights." But this did not prevent the Republicans themselves, the anti-Federalist members of Congress, from holding a caucus, also secret, for the nomination of candidates to the highest executive offices of the Union.

At the next presidential election, in 1804, the Congressional Caucus reappeared, but on this occasion it no longer observed secrecy. The Republican members of Congress met publicly and settled the candidatures with all the formalities of deliberative assemblies, as if they were acting in pursuance of their mandate. The Federalists, who were almost annihilated as a party after Jefferson's victory, in 1801, gave up holding caucuses altogether. Henceforth there met only a Republican Congressional Caucus, which appeared on the scene every four years at the approach of the presidential election.

The extra-constitutional, not to say the anti-constitutional, rule, which this body had assumed, was more than once challenged with much heat, both in Congress and in the country. But its decisions were invariably accepted and its candidates elected. — *Ostrogorski, op. cit., p. 7.*

[9] **Party Loyalty.** — When the Primaries were first made subject to legal regulation, a revolution in political methods was predicted by the advocates of the new laws. It was expected that the great mass of Democratic and Republican voters would avail themselves of the chance to wrest the Machines from the control of the "bosses." The failure of the voters to do what was expected of them has given risen to much discussion. Their apparent indifference is due to several causes. Many of the voters do not yet understand the direct bearing of the Primaries upon the elections. Party allegiance, or "loyalty," is very strong. From sixty to ninety per cent of the voters are accustomed year after year to vote the "straight ticket" of the party to which they belong, regardless of the character of the nominees. They regard party victory upon any terms as the chief object to be gained, and they are willing to accept without question the theory that the "boss" is working for the party interest and is therefore entitled to their support. When they revolt, it is commonly not

by voting the ticket of the opposition party but by refusing to vote at all. The defeat of parties in power is almost invariably due to the failure of the voters to go to the polls rather than to a transfer of their votes to the opposition. — *Fuller, op. cit., p. 36.*

[10] **Primary Expenses.** — It is a serious question whether public appropriation should not be made to defray a part of the expenses of candidates in primaries. Already in most states all of the cost of the primary election itself is paid from the public treasury. The payment of election judges, the printing and distribution of ballots and booths, the rent of polling-places, and other similar expenditures incident to holding a primary are usually met from the public funds, although at the outset all such charges were covered by party assessments upon candidates. The government might also undertake to place in the hands of every voter in the given district a brief statement regarding the record and platform of each candidate. Such statements, prepared by the candidate's freinds, or critics, might be bound together and sent to every member of the party in the constituency interested. The expense would not be great, while the educational value to the public would warrant an appropriation for the purpose. At any rate, the government might defray the cost of distributing such material. It might also be possible to allow candidates the use of certain public buildings, such as school-houses, or perhaps to secure other meeting-places and permit their use by the several contestants. There is serious danger that under the present system the man without large means may find it almost impossible to enter the primary lists, or that he may incur obligations of a character that may interfere with his usefulness to the public. The candidate should not be subjected to the temptation of mortgaging his future political conduct for the sake of securing the necessary campaign fund. — *Chas. E. Merriam, "Primary Election," p. 174.*

CHAPTER VI

ELECTIONS AND ELECTION METHODS

ELECTIONS are of two kinds, direct and indirect. Direct elections are those in which the electors vote directly for the candidates for office, while indirect elections are those in which the candidates are not voted for directly by the electors, but are elected by some other body. With the exception of the president and vice-president, all important elective officials are now chosen by direct election. Until the adoption of the seventeenth amendment, United States senators were elected by an indirect election, namely, by the state legislatures in the various states, but from now on they will be elected directly by the electors the same as representatives and state officials. And even in the case of the president and vice-president, the election by the electoral college is merely a matter of form, while the selection is virtually made by the electors at the fall election. The method of electing the president is unique and deserves special mention. All other elections are left largely to the states.

(1) Nomination of President. The candidates for president and vice-president are nominated by the national conventions of different parties, to which we

have already referred.[1] The call for the national convention is sent out by the national committee, which determines the time and place of meeting. It is usually held in some large city during the early summer of the year in which the presidential election occurs. The call also specifies the number of delegates to which each state is entitled, which is usually twice the number of senators and representatives in congress from that state, and determines the manner in which they are to be elected, whether by congressional districts or by state conventions. These delegations are usually instructed to vote for a certain candidate at the convention, some "favorite son," or some candidate to which the party of the state is pledged. But it is always impossible to foretell who will be the successful candidate. Many delegations are instructed to vote for local candidates on the first few ballots, and then are at liberty to vote for any candidate who seems likely to win afterward. The conventions usually meet in great auditoriums, such as the auditorium at Chicago or Denver, which will accommodate thousands of people.

The convention is called to order by the chairman of the national committee and a temporary chairman is elected, who then takes the chair and delivers a speech on the political situation, which is known as the keynote speech. Committees are then appointed on credentials, organization, rules, and resolutions, each consisting of one member from each state and territory.

To the credentials committee falls the duty of deciding contests between the delegations from any state when more than one is sent and of determining which delegations are entitled to sit in the convention. The organization committee reports a permanent organization for the convention which is usually accepted by the convention, and the committee on rules submits the rules of procedure, which are also usually accepted without change. It was customary to follow what is known as the "unit rule" at one time in voting for the candidates.[2] According to this rule the delegations voted by states, the majority of the delegation casting the entire vote to which the delegation was entitled. Thus, if a state sent in its delegation fifteen delegates for one candidate and ten for another, under the unit rule the twenty-five votes of the state would be cast for the first candidate. This rule was abandoned by the Republicans in 1880, and by the Democrats at the last convention. Another rule followed by the Democrats is the "two-thirds" rule,[3] which requires a candidate to secure a two-thirds vote of the members of the convention before being declared nominated. All other parties follow the practice of requiring merely a majority vote to nominate. The committee on resolutions prepares and presents the party platform embodying the party's attitude on the political issues of the day.[4]

After these committees have made their reports and they have been adopted, the convention proceeds with

the nominations. The roll-call of states is begun and each delegation presents its candidate. Usually the first state in alphabetical order which does not have a candidate of its own yields its place to the most promising candidate, and other delegations second the nomination. Usually several candidates are presented, the presentation of a candidate being the occasion for prolonged applause.[5] After the roll-call for nominations is completed the balloting for the nomination begins. The roll is called and the chairman of each delegation arises and announces the vote of the delegation. If no candidate receives a majority, the roll is called again, and so on till some one does receive a majority. A great many ballots are frequently required to secure the nomination. After the president has been nominated, the nominee for vice-president is selected in the same way, but usually little interest attaches to the choice of the vice-president.

(2) The Electoral College. Each state is entitled to as many electors in the electoral college as it has senators and representatives in congress. The candidates are usually nominated in the same way that state officers are nominated, either by the state convention or by primaries. Originally the electors were elected by the state legislatures, but now they are elected at large in all states at the regular fall election. Each party nominates the full number of candidates and the voter votes for the party group which he favors. The party that receives the largest number of votes elects

all of its electors. As soon as the electors in the various states are known, it is known who will be the next president. But the electors do not cast their votes until the next January. On the second Monday in January the electors meet in the capitols of their respective states and cast their votes for president and vice-president, and these are certified to and sent to the president of the senate where they are counted at a joint session of both houses of congress. Thus the part of the electoral college in the election of the president is purely a matter of form, and it is not improbable that a direct method of electing the president will follow the direct election of United States senators. During the last presidential election several states provided for a presidential primary at which the people might express their choice for president directly.[6]

(3) Other Elections. All other elections are held under state laws. National elections are held on the Tuesday after the first Monday in November every four years, and most state elections are held on the same day every even year, although those states which have annual elections of course hold elections every year. Congressmen are elected at this general fall election, except in Maine and Vermont, where they are elected in September. State officers are elected at these general fall elections, as are also county officers in most states. In many states an attempt has been made to separate state and national elections from local elections in order that local officers may be elected on

Official Ballot for Judicial Election

Mark with a cross (X) in the square ☐ at the right of the name of the candidate for whom you desire to vote, if it be there, or write any name that you wish to vote for in the proper place.

	INDIVIDUAL NOMINATIONS
	VOTE FOR ONE
For Justice of the Supreme Court	ROBERT GEORGE SIEBECKER, A Non-Partisan Judiciary ☐
	☐
	VOTE FOR ONE
	JOHN C. FEBLANDT, A Non-Partisan Judiciary ☐
	STEPHEN A. MAOIGAN, A Non-Partisan Judiciary ☐
For Municipal Judge	JOHN MORAN, An Independent Judiciary ☐
	OLE A. STOLEN, A Non-Partisan Judiciary ☐
	☐
	VOTE FOR ONE
For County Judge	A. G. ZIMMERMAN, An Independent Judiciary ☐
	☐

A NON-PARTISAN BALLOT FOR A JUDICIAL ELECTION

merit rather than on national party lines. Municipal elections in many states are therefore held in the spring, usually in April, and in many states judicial elections and those for the choice of educational officers are held at the same time. Town and village elections are sometimes held at the same time as state elections and sometimes at the same time as municipal elections.

(4) The Suffrage. The matter of determining who shall have the right to vote is left to the individual states, with the constitutional restriction that no person shall be deprived of that right on account of race, color, or previous condition of servitude. Formerly various

restrictive qualifications were prescribed by the states, such as the ownership of land or other property of a certain value, the profession of a certain religious test, and similar qualifications, but at the present time nearly all states confer the suffrage upon all male citizens twenty-one years of age, who have resided within the state and election district a given length of time, and who are of sound mind. A common residence requirement is one year within the state and ten days within the voting precinct. In an increasing number of states an educational test is being required, such as the ability to read and write. This qualification has been adopted in the South to disqualify the negroes. In all states convicted criminals, imbeciles, insane persons, and degenerates, and in some states paupers and vagrants are disqualified from voting.

Although women are citizens as well as men, in most states they have not been given the franchise. In nine states, however, this has been done — Wyoming, Colorado, Utah, Idaho, Washington, California, Arizona, Kansas, and Oregon. Constitutional amendments granting the suffrage to women were voted down by small majorities in Michigan, Ohio, and Wisconsin during 1912, but during the present year (1913) Illinois has granted them the suffrage in the election of all federal officers. In educational matters they have the right to vote in some thirty-two states, while several other states give them the right to vote on bond issues, where they own property. A great impetus has been

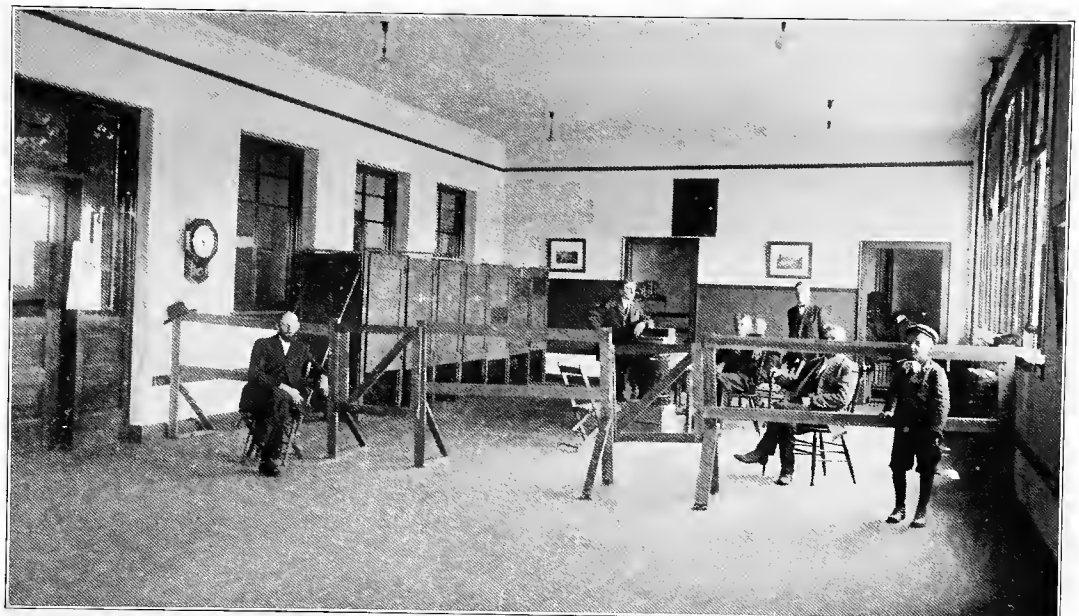
given to the woman suffrage movement in recent years, and it is probable that the franchise will be extended to women in most states in the near future. Woman suffrage was made one of the planks in the platform of the Progressive party in the last presidential election.[7]

(5) Registration. In order that the election officers may know who is entitled to vote at election time, and may keep track of the electors that have voted, a poll list is made up and all electors are required to register. Most states provide for a registration day some time previous to the election, at which time electors go to the various voting booths and enter their names on the list of electors in the district, called the poll list, together with their street address. Copies of these lists are made and posted at various places in the district for public inspection, so that any voter may see that his name appears as it should, and may inspect the list to see that no names are there that should not be. On election day this list is checked as the voters cast their ballots. In large cities it would otherwise be impossible for the election officers to tell who were entitled to vote, or to prevent electors from voting more than once. Before registrations were required, it was a common practice for political bosses to import "repeaters" to go around to the various voting precincts and vote under assumed names, and where the lists are not corrected from year to year this is still possible. In some states, therefore, the voters are required to register before each election, so that a new

list is made up each time. But in most states the list is carried from year to year, being corrected by the registration officials. This latter practice has the advantage of saving the voter the trouble of registering every time, his name remaining on the list as long as he remains in the district, but it has the disadvantage that frequently many names remain on the list after their owners have died or left the voting district. The registration officers are usually the same as the chief officers of election.[8]

Before elections are held, public notices of the time and place of the election and of the officers to be elected must be given. These notices are usually printed and posted at various places in the district and also published several times in one or more newspapers. For convenience, voting districts are usually small. Thus in cities, for instance, the city is divided into wards; if these are small, but one voting place will be necessary, but if they are large it is a common practice to divide the ward into two or more voting precincts, as they are called, with a voting place in each precinct, in order that the voters do not have far to go. Each voting precinct has its full equipment and set of election officers.

(6) Election Officers. The principal election officers are the judges or inspectors of election, poll clerks or clerks of election, and the ballot clerks. The poll clerks and ballot clerks usually serve merely on election day and are frequently appointed by the chairman



VOTING PLACE IN SCHOOL ROOM, GRAND RAPIDS, MICH.

In Grand Rapids practically all the voting booths are placed in school houses.

of the judges of election, but the judges of election are usually appointed for a given term of years, in cities by the mayor and common council, and in towns by the town board. They receive from two to five dollars per day. It is the duty of the ballot clerks to hand out the ballots to the voters and to check their names on the registration list. They write their initials on the outside of the ballot, and no ballot can be counted which does not have such initials. This makes it impossible for other ballots than the official ballots to be used, and prevents corruptionists from exerting influence upon the voters or checking them in their voting. It is the duty of the poll clerks to keep a list of the electors voting and their residence addresses. The judges of election or election inspectors are charged with the responsibility of conducting the election, maintaining order, deciding questions with regard to the election laws, opening and closing the polls, and supervising the counting of the ballots and the making out of the election returns or reports. There are usually two ballot clerks, two poll clerks, and three election inspectors. Each party is allowed to have watchers or challengers.[9]

(7) The Voting Booth. The arrangement of the voting booth is usually regulated by law, and is designed to preserve the secrecy of the ballot and the purity of the election. Voting booths usually consist of a single room with tables for the use of the election officers and small booths or compartments in which

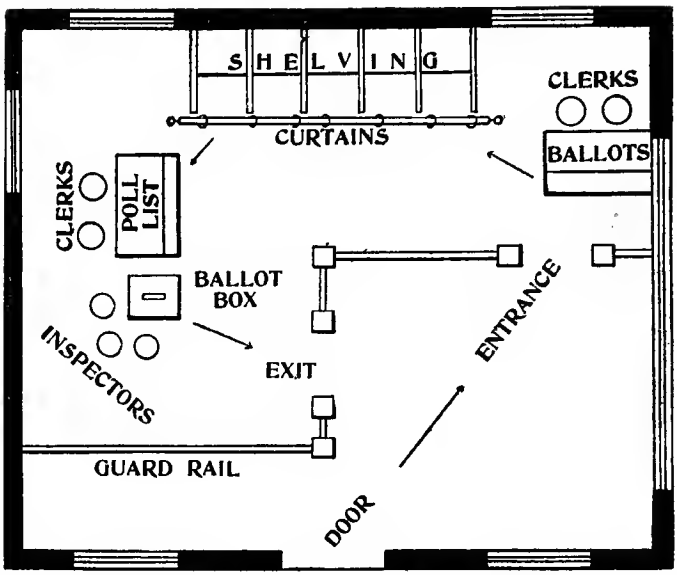


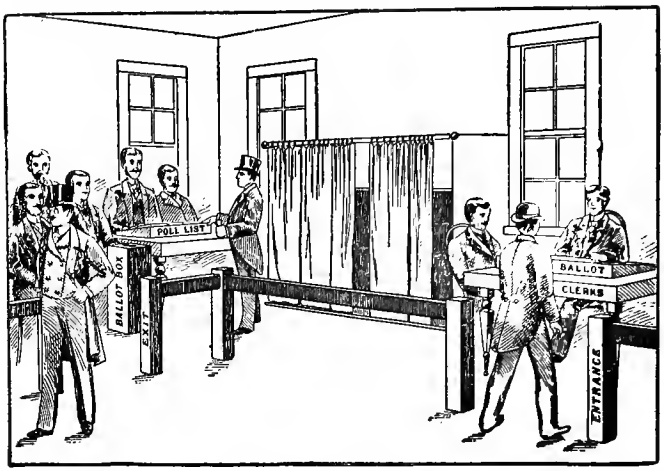
DIAGRAM SHOWING ARRANGEMENT OF ELECTION BOOTH AS REQUIRED BY LAW IN WISCONSIN

the voters may mark their ballots. Sometimes it is a portable building constructed for the purpose, sometimes a room in some store or residence, and sometimes a room in some school or other public building which is conveniently located. The practice of having voting places in school buildings is spreading very rapidly. It saves the expense of constructing separate buildings, of paying rent, and also serves as an object lesson to the school children and future voters. In Grand Rapids, Michigan, for instance, practically all voting

booths have been placed in school buildings, where there are such buildings in the precinct.

The room is divided by a guard rail, as shown in the diagram on page 1502, with a gate or turnstile at each end for entrance and exit. Near the entrance gate is a table for the ballot clerks, the ballots, and registration list. Along the wall back of the rail are the voting compartments with curtains or doors, provided so the voter may mark his ballot in secret. At the other end of the rail is a table for the poll clerks, the ballot box, and another table for the election judges or inspectors. Sometimes there are gate-keepers to open and close the gates to prevent voters from crowding in faster than the voting compartments will accommodate.[10]

(8) The Process of Voting. When the elector goes to the booth to vote, he enters the first gate or stile and gives his name and street address to the ballot clerks, who examine the registration list to see if he is registered. If he is, they check his name and hand him a ballot. The voter takes his ballot and enters the voting compartment, draws the curtain, and marks the ballot as he wishes to vote. Before leaving the compartment he folds the ballot so that his vote is concealed, and so the initials of the ballot clerks are on the outside. He then goes to the table where the poll clerks are sitting and gives them his name and address, and deposits his ballot in the ballot box. Each poll clerk makes a list of the voters who have voted. In



ELECTION BOOTH ARRANGED AS REQUIRED BY LAW IN WISCONSIN

The three men sitting at the left are inspectors. From Wisconsin Election Laws

case the voter is not registered, or the election judges doubt his right to vote, or in case his vote is challenged by the party watchers, he must "swear in" his vote, as it is called.[11] This is done by his answering all questions satisfactorily with regard to his citizenship, length of residence in the state and precinct, and his taking an oath declaring the truth of his declarations. In some states, as Wisconsin, for instance, a voter who swears in his vote must file with the election inspectors an affidavit subscribed to by two freeholders of the district before a notary public, stating that they have known the elector for a certain length of time

and know him to be a qualified elector. A record of all such votes is kept for reference in case they are later found to be illegal.

The polls are usually open during election day from early in the morning until eight or nine o'clock at night. When the polls are closed, the ballot box is opened by the election inspectors and the votes are counted and the results certified to the proper officers. The ballots are kept for a certain number of days after the election in order that a recount may be had if necessary.

(9) The Ballot. For many years the ballots used in elections were not regulated by the state—in fact, no ballots were used at all. Each voter answered as his name was called. Later on, the candidates had their own ballots printed, and finally all the candidates of one party had their names printed on one ballot. Various devices were adopted to distinguish ballots so that party bosses could tell how different persons voted —ballots for the different parties were printed on different colored paper, etc. But now all ballots are regulated by law and printed at public expense, and can only be secured at the polls in the manner just described. In general there are but two forms of ballot in common use at the present time. One form is a modified form of the Australian ballot, and the other is a non-partisan ballot.

The Australian ballot as used in this country is a party ballot. The candidates for office are arranged

in party columns, there being as many columns from left to right as there are parties, plus usually a column for independent candidates. The offices to be filled are listed vertically at the left of the ballot, with the names of the candidates opposite in the respective party columns. At the top of each column, under the name of the party, is a square or circle, and after each candidate's name is a similar square or circle. To mark his ballot the voter places an "x" in these squares. If he wishes to vote one of the party tickets straight, he merely places an "x" in the square at the head of the ticket, and he thereby votes for all the candidates on the ticket. If he wishes to vote for part of the candidates on one ticket and part on another, he does not place an "x" in the square at the head of any ticket, but places an "x" after the name of each candidate for whom he wishes to vote.

On the non-partisan ballot, all candidates are listed alphabetically under the name of the office to which they seek election. It contains no party mark or designation whatever. Thus the voter must select from among the candidates for each office the one for whom he wishes to vote without the assistance of the party column or emblem. It is designed to secure a more intelligent vote. The voter must be able to read the names of the candidates in order to mark his ballot. With the party ballot, it is often customary to print a party emblem under the party name, so that the illiterate voter may be instructed to enter the booth

OFFICIAL PRESIDENTIAL BALLOT

If you desire to vote for all of the presidential electors of one party, make a cross (X) or other mark in the circle (O) under the party designation at the head of the party column. If you desire to vote for particular persons without regard to party, mark in the square after the name of the elector for whom you desire to vote, or write any name that you wish to vote for in the proper place.

Democrat	Prohibition	Republican	Social Democrat	Independent	Independent	Independent
For President— WOODROW WILSON For Vice-President— THOMAS R. MARSHALL	For President— EUGENE W. CHAFIN For Vice-President— AARON S. WATKINS	For President— WILLIAM HOWARD TAFT For Vice-President— JAMES SCHOOLCRAFT SHERMAN	For President— EUGENE V. DEBS For Vice-President— EMIL SEIDEL	For President— A. R. REIMER (Socialist Labor Party) For Vice-President— AUGUST GILLHAUS (Socialist Labor Party)	For President— THEODORE ROOSEVELT (Progressive Party) For Vice-President— HIRAM W. JOHNSON (Progressive Party)	For President— ..... For Vice-President— .....
Electors of President and Vice-President.	Electors of President and Vice-President.	Electors of President and Vice-President.	Electors of President and Vice-President.	Electors of President and Vice-President.	Electors of President and Vice-President.	Electors of President and Vice-President.
WENDELL A. ANDERSON	WILLIAM F. MASSUERE	SOL. LEVITAN.	JAMES SHERMAN.	CARL DOESCHER. (Socialist Labor Party)	JOHN HICKS. (Progressive Party)	
LOUIS G. BOHMRICH.	WILLIAM F. NETHERCUT.	AARON M. BRAYTON	DANIEL DEVROEY.	CHRIS. BRANDT (Socialist Labor Party)	WHEELER P. BLODGOOD. (Progressive Party)	
ERNST MERTON.	LUCIUS R. PAGE.	M. V. DEWIRE.	NELS F. NIELSEN	A. M. MAANSPEARER. (Socialist Labor Party)	P. LEE NORTON. (Progressive Party)	
O. F. ROESSLER.	W. A. PERRY	RAY C. TWINING.	AUGUST HARDLA	F. FARCHMIN (Socialist Labor Party)	OTTO BISMARCK BOCK. (Progressive Party)	
GEORGE CRAWFORD	PETER T. JAMES.	DWIGHT T. PARKER.	ALFRED SCHWEIDER.	S. ORSIKOWSKY (Socialist Labor Party)	E. J. BASKERVILLE. (Progressive Party)	
JOSHUA EMIC DODGE.	CHARLES WENDT, JR.	ADOLPH J. WEIDNER.	PAUL GAUER.	F. HENTSCHEL. (Socialist Labor Party)	FRED C. THWAITS. (Progressive Party)	
ROLLIN H. MALLORY	AUGUSTUS C. FORSTER.	NATHANIEL GREENE.	ROBERT SEIDEL.	CARL SCHULZ. (Socialist Labor Party)	CHARLES F. STITT (Progressive Party)	
CHARLES M. LAMBERT.	V. M. WEEKS.	LEWIS E. REED	ROBERT T. SCHUTTLER	CARL PIETSCH (Socialist Labor Party)	FLORIAN LAMPERT. (Progressive Party)	
ED. LUCKOW.	O. E. HALLINGER.	CHARLES A. LEICHT.	CHARLES JOHNSON.	.....	WILL H. McPETRIDGE. (Progressive Party)	
ERNST C. ZIMMERMAN.	W. T. JOHNSON.	ALBERT L. FONTAINE.	G. C. RISCHEL.	OTTO GUNDERMANN (Socialist Labor Party)	GEORGE H. FULLER. (Progressive Party)	
JOHN A. BUTTERS.	JOSEPH VOLK.	BERNARD C. WOLTER.	CHARLES H. FULLER.	JOHN W. CARL (Socialist Labor Party)	HENRY C. SCHULTZ, JR. (Progressive Party)	
GEORGE D. CLINE.	WALDEMAR AGER.	GEORGE C. WITHERBY.	CURTIS A. BOORMAN.	O. T. ROSAAS. (Socialist Labor Party)	H. C. ANDERSON (Progressive Party)	
JOHN A. HOBB.	T. B. HARMON.	THEODORE M. THOMAS.	C. J. HANSON.	ALBERT WANG. (Socialist Labor Party)	PETER ACHERSON. (Progressive Party)	

OFFICIAL PRESIDENTIAL BALLOT

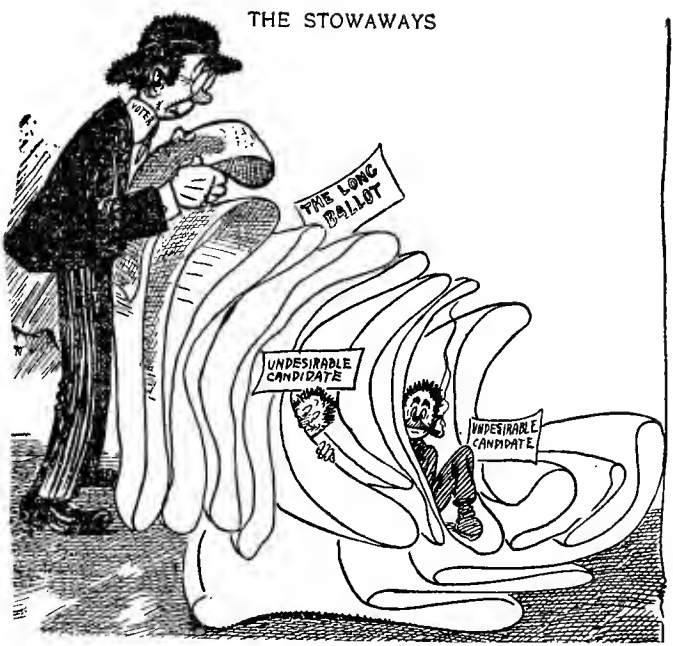
Sample Partisan Ballot Used in Wisconsin in the National Election, 1912

and place an "x" under the donkey's head, or the spread eagle, or the bull moose, and that is all that is necessary to vote the party ticket. This naturally adds greatly to the influence of the party and the strength of the bosses and party leaders. It also makes corrupt voting more easy. With the non-partisan ballot it is impossible for the politician to tell whether a paid voter fulfills his contract by voting the way he agreed. The non-partisan ballot therefore tends to weaken the influence of party leaders and to insure the election of candidates on merit rather than party affiliation. It is especially desirable in municipal elections, the election of judges, superintendents of public instruction, and similar officials, where the national political parties should have no influence. It is in fact a means of divorcing local politics from the domination of the national parties.

(10) Voting Machines. In many places, especially large cities, the voting machine is replacing the old method of voting. This is a machine which works on the principle of an adding machine, and which records the vote and adds the number of votes which each candidate receives at the same time. It is equipped with a large number of small levers, under each of which is written the name of a candidate. Opposite the name of each office is a lever for each candidate, and all that the voter has to do to register his vote is to pull down the lever over the name of the candidate for whom he wishes to vote. The machine is so con-

structed that only one candidate for each office can be voted for, and so that the lever will not release itself so that it can be pulled down again until the election inspector adjusts it for the next voter. Each machine is equipped with a curtain which closes around the voter while he casts his vote. As soon as the polls are closed the result of the election may be ascertained by merely opening the machine and observing the totals under each candidate's lever. The machines can be used for either party or non-partisan elections, and they have the advantage of being mechanically accurate, and of doing away with the task of counting the ballots, with the delay which that occasions, as well as the liability to mistakes. (See page 1517.)

Many suggestions have been made for the improvement of election machinery and a better registry of the popular choice. Some have advocated compulsory voting. In some states provision has been made for the expression of first and second choice votes on the part of the voter, the second choice votes being counted if no candidate receives a majority of votes on first choice. And still other states have tried cumulative voting, where the voter may concentrate his votes on one candidate. Thus, if there were three commissioners to be elected, let us say, he could cast one vote for three of the candidates, or he could cast three votes for any one candidate. This last method is intended to insure minority representation. But the chief difficulty with most of these plans is that they are com-



THE PERIL OF THE LONG BALLOT
Cartoon from Columbus, Ohio, *State Journal*

plicated and hard to make plain to the voters, at the same time making the counting of the ballots difficult. None of them has been used to any great extent.

There is little doubt that far too many offices are elective at the present time. The average citizen cannot familiarize himself with the candidates so he can vote intelligently; he must depend upon some party in which he believes and has confidence to assist him.

Many citizens who have lost faith in all parties, and who are not sufficiently informed to vote intelligently, stay at home and do not vote at all. There has been started, therefore, a movement to shorten the ballot. This "short ballot" movement, as it is called, proposes to have only the most important offices filled by election, all others being appointed by some central authority, or filled by the heads of departments. Undoubtedly much will be done along this line in the near future.

Another plan, which has been adopted by Oregon, Wisconsin, and one or two other states, is that of having the state send out election pamphlets to give information to the voters. Each candidate is allowed so much space, and these pamphlets are printed and distributed at public expense. This not only gives the voter the information, but it makes it possible for the poor man to become a candidate for offices which he could not otherwise afford to campaign for.

SUPPLEMENTARY READING

CHAPTER VI

Elections and Election Methods

[1] **The National Convention.** — The national conventions of both the great parties until 1868 were made up of one delegate for each United States Senator and one for each member of the House of Representatives. The Republicans then doubled the number of their delegates by electing four "delegates-at-large" to correspond to the two Senators from each state and two "District delegates" from each Congressional District to correspond to the membership of the House of Representatives. The Democrats adopted the same plan in their national convention of 1872, and it is still the rule of both parties.

National conventions are still governed wholly by custom and precedent, but the election laws of nearly all the States prescribe regulations for procedure in State conventions and conventions held in subdivisions of States. These laws are intended to insure fair play and to prevent the abuse of power by the party Machines. — *Robert H. Fuller, "Government by the People," p. 59.*

[2] **The Unit Rule.** — As conventions are partisan, the parties which they represent make the rules by which they are governed. Both the great national parties in 1832 adopted Congressional representation as the basis of representation in their national conventions, but the ruling idea of the Democrats was to maintain the powers and integrity of the several States, while the National Republicans and the Republicans who succeeded them inherited the Federalist idea of centralization of power in the national government. The Democrats adopted the practice of electing all the delegates from each State to their national con-

ventions in State conventions, and they decreed that the vote of all the delegates from a State should be determined by the majority vote of the delegates from that State. In other words, they adopted the "unit rule," under which the delegates from each State are compelled to vote as a unit in national conventions. This rule has been maintained ever since, and it is so embedded in Democratic policy that even in State conventions an attempt is made to compel the delegates from each county to vote as a unit. — *Ibid., p. 58.*

[3] **The Two-Thirds Rule.** — Another rule of Democratic national conventions requires the vote of two-thirds of all the delegates to nominate the candidates for President and Vice-President. This is known as the "two-thirds rule." It was adopted so as to prevent the delegates from Republican States from uniting to nominate a ticket opposed by the Democratic States which would be called upon to elect the candidates.

The rules of the Democratic party make the State the unit of representation in Democratic national conventions. The unit of representation in Republican national conventions is the Congressional District, although the delegates corresponding to the two United States Senators from each State are elected by the State convention and represent the entire State. All attempts to introduce the unit rule in Republican conventions have failed. Every delegate may vote as he chooses, regardless of the wishes of the other delegates from his State. — *Ibid., p. 58.*

[4] **The Party Platform.** — On the second or third day, the convention is ready for the report of the committee on resolutions, which is charged with drafting the platform. This committee begins its sessions immediately after its appointment, and usually agrees on an unanimous report, but sometimes there is a minority report. The platform is not often a statement of the particular things which the party proposes to do if it gets into power; it is rather a collection of nice generalities which will serve to create a good feeling and unite all sections around the party standard. It usually contains, among other things, references to the great history of the party, interpersed with the names of party leaders, and denunciations of the policies and tac-

tics of the opposite party. Frequently a platform will refer to matters that do not concern American politics primarily, such as the persecutions of the Jews in Russia or the struggle of Ireland for home rule. Such resolutions do not imply that the government can or will do anything positive on such matters, but they serve to appeal to the imagination and sympathies of certain classes of voters. The report of the committee on resolutions seldom meets opposition in the convention, for care is taken by the committee to placate all elements. It is only when there is some very contentious matter, such as the free silver issue in 1896, that there is likely to be a divided report from the committee or any debate on the floor. — *Chas. A. Beard, "American Government and Politics," p. 170.*

While the adoption of a platform is now an accepted party obligation, the duty is not discharged with complete sincerity. Platform utterances have become so vague and ambiguous that the tendency of public sentiment is to attach much less importance to them than to the declarations of the presidential candidates. Mr. Blaine, in a review article, thus described the change which has taken place:

"The resolutions of a convention have come to signify little in determining the position of President or party. Formerly the platform was of first importance. Diligent attention was given, not only to every position advanced, but to the phrase in which it was expressed. The presidential candidate was held closely to the text, and he made no excursions beyond it. Now, the position of the candidate, as defined by himself, is of far more weight with the voters, and the letter of acceptance has come to be the legitimate creed of the party." — *H. J. Ford, "Rise and Growth of American Politics," p. 206.*

[5] **A Favorite Son Boom.** — Dr. Beffel went out to find a sign painter who could prepare banners and Ellery's band was engaged to head the column of Badgers on a march to the Coliseum. Ten o'clock came and there were no signs of Dr. Beffel. Half past ten o'clock arrived and still he delayed while the delegates at headquarters began to get nervous. Just before eleven o'clock, the time at which the Wisconsin caucus adjourned,

the doctor came tearing into the lobby with a roll under one arm and a bundle of what looked like set pieces for a fireworks show under the other. He dumped both on the assembly room floor, where it developed that the one was standards for banners and the other the banners themselves. Here was what the doctor and the sign painter had together evolved, in the way of stirring sentiments:

"Little Bob, the People's Champion," "Physical Valuation of Railroads," "We Stand for Representative Government," "A Sound Currency," "Wisconsin for Robert M. La Follette," "Probe the Telegraph and Telephone Systems," "Tariff Revision."

The banners were tacked in place and by the time Chairman Brumder called the caucus to order they were ready.

In the caucus Mr. McGee, who had been appointed marshal of the informal parade, announced the delegation, with all Wisconsin people here, would form in double column and march down Jackson boulevard to Michigan avenue to the Auditorium, where a stop would be made for the band to play a number or two, when the march would be resumed to the Coliseum. This program was carried out. With the band leading and the delegates at large at the head the procession moved on to the Coliseum. . . .

It had been planned to march up the aisle of the Coliseum to Wisconsin's place, with the band leading. But on arriving the assistant sergeant-at-arms at the door, backed by a stalwart policeman, refused to let the band in, as a rule had been adopted against it. The band therefore remained outside while the delegation went on inside and struggled through the crowd in the side aisle to its place, which is to the right in front of the platform, an excellent strategical position when it is wanted to catch the eye of the chairman. — *"Milwaukee Sentinel," June 17, 1908, quoted in C. L. Jones, "Readings on Parties and Elections," p. 100.*

[6] **Election by the House of Representatives.** — In case no candidate receives a majority of the electoral votes, the choice devolves upon the House of Representatives. But in that case

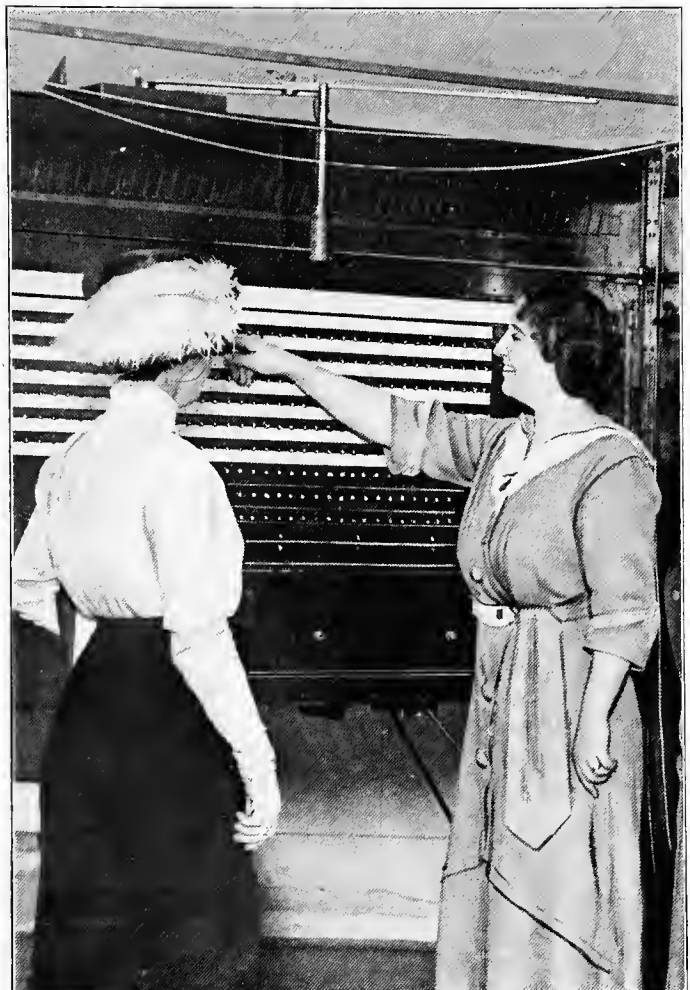
the house votes by States, each State having one vote, irrespective of its number of representatives, and the choice is made from the three candidates standing highest on the list. A quorum for the election of a President by the house consists of a member or members from two-thirds of the States, and the vote of a majority of all the States is necessary to a choice.

The objections to this method of choice are obvious. It is undemocratic, because the house on which the choice would devolve in any case would be, not the new house chosen at the recent election, but the old house, which might indeed, as has often happened, be in the hands of the political party defeated at the late election. In the second place, under such a scheme, New York with a population over 100 times as great as that of Nevada would have no larger share in choosing the executive. In 1873, for example, had the choice devolved upon the house, it would have been possible for 45 members (being a majority of the representatives of nineteen States) to determine the choice in spite of the wishes of the other 147 members. The election might thus have rested with the representatives of 8,000,000 people as against the representatives of 30,000,000.

Twice has the electoral college failed to make a choice, thus giving the election to the House of Representatives.

In 1801, there was a tie between Jefferson and Burr, each having the vote of a majority of the electors. There were then sixteen States, of which eight voted for Jefferson, six for Burr, and two were evenly divided. The balloting lasted for more than a week, during which thirty-five votes were taken. Finally on the thirty-sixth ballot the two divided States cast their ballots for Jefferson and he was elected, as the electors had originally intended.

The second instance occurred in 1825, when the electoral vote stood as follows: For Jackson, 99; for Adams, 88; for Crawford, 41; and for Clay, 37, no one having a majority. Under the Twelfth Amendment Clay was dropped from the list and the choice was confined to the three highest candidates. There were then twenty-four States, and of these the representatives of thirteen voted for Adams, seven for Jackson, and four for Craw-



THE MODERN VOTING MACHINE

A demonstration being made to an Illinois woman voter on the use of it.

ford. — *James W. Garner, "Government in the United States," p. 283.*

[7] **Common Arguments For and Against Woman Suffrage.** — The principal arguments advanced against the enfranchisement of women are: that active participation of women in political affairs will tend to destroy their feminine qualities by forcing them into political campaigns, and thus causing them to neglect the young, which it is their mission to rear; that it will tend to introduce discord into family life by setting husband against wife on political issues; that since women are incapable of discharging all the obligations of citizenship which devolve upon men, such as serving in the army, militia, or police, they ought not to demand all the privileges of citizenship; and finally that a majority of the women do not desire the privilege of voting and would not exercise it if permitted to do so. It is better, therefore, say the opponents of woman suffrage, to give the ballot to the husband alone and leave to the wife the right to exert her powerful influence in behalf of good government without actually herself engaging in political contests.

In favor of giving the ballot to women, it is argued that differences of sex do not constitute a logical or rational ground for granting or withholding the suffrage if the citizen is otherwise qualified; that women should be given the ballot for their own self-protection against unjust class legislation; that since millions of them have become wage earners and are competing with men in nearly every trade and occupation, and in many of the learned professions, the argument that the wage earner should have the ballot as a means of defense applies equally to women as to men; that since the old civil disabilities to which they were formerly subject, such as the inability to own real estate, enter into contracts, and engage in learned professions, have been removed, it follows logically that since many of them have become property owners and taxpayers it is unjust to permit the shiftless non-taxpaying male citizen to take part in choosing public officials and at the same time deny the right to women taxpayers. Moreover, it is argued that the admission of women to a share in the management of public affairs would inure to the

common good by introducing into political life a purifying and ennobling element which would not only elevate the tone of politics, but also conduce to better government. Women are vitally interested in such matters as taxation, education, sanitation, labor legislation, pure food laws, better housing conditions in the cities, the prohibition of the saloon, and many other matters, and it is maintained that in those States where they have been given the right to vote on many of these subjects they have been instrumental in securing wise legislation. Finally, it is argued, the fact that some women do not care for the privilege is no reason why it should be denied to those who do desire it. — *Ibid., p. 128.*

[8] **New York's Registration Law.** — Personal registration is required in all of the cities of the State and in all villages having 5,000 inhabitants. Elsewhere the lists of registry are copied from year to year by the election officials. There are four days of registration wherever personal registration is required; elsewhere two days. In the larger cities the boards of registration sit from seven o'clock in the morning until ten o'clock at night; in the smaller cities and in villages they sit from eight o'clock in the morning until nine o'clock at night.

Every political organization that is entitled to nominate candidates to be voted for in the election may have two authorized representatives who are known as "watchers" at each place of registration while it remains open, and they are entitled to see all that is done there.

Each of the four inspectors of election is provided with a registration book, the pages of which are lettered for the alphabetical entry of the names of the voters and ruled off into twenty columns. When a voter desires to register where personal registration is required, he presents himself before the board of registration of the election district in which he lives upon one of the specified days for registration. He is asked by the inspectors to give his name, which is entered in the second and third columns of a page bearing the appropriate letter; the street and street number of his residence are entered in the fourth and fifth columns; the floor or room which he occupies in the sixth; his age in the seventh; the length of his residence in the State,

county, and the election district in the eighth, ninth, and tenth; the name of the State or country in which he was born in the eleventh; the date of his naturalization, if he is a naturalized citizen, in the twelfth; the designation of the court which naturalized him in the thirteenth; the State, city, or town and the address from which he last registered or voted in the fourteenth, fifteenth, sixteenth, and seventeenth; and in the eighteenth, the date of his registration. The nineteenth column is left blank to receive the number of ballots which he votes on election day and the twentieth is reserved for the entry of any material facts relating to challenges or oaths. In the first column numbers are entered indicating the successive order of the appearance of the voters before the registration board.

From the details thus entered in the registration books it may be ascertained whether the person registered is actually qualified to vote. A false oath taken before a board of registration is punishable as "wilful and corrupt perjury." — *Fuller, op. cit., p. 26.*

[9] **Party Challengers.** — Two party agents or representatives and a substitute or alternate for each may be appointed for each polling place to act as challengers for their respective parties and candidates and to observe the proceedings of election officers. Such appointments may be made, in case of a city election, by the chairman of the political committee of any party that has nominated the candidates to be voted thereat; in other cases of convention nominations, by the county or other proper local committee of the party making such nominations; and in case of candidates nominated by nomination papers, the candidates may appoint; such appointment shall be in writing under the hand of the person making it, specifying the name and residence of the appointee, election district for which he is appointed, and the name of some substitute to be appointed in case of his failure to serve or absence from polling place, and be filed with the clerk of the city, town or village at least three days before election. The clerk shall thereupon issue a permit upon a printed slip or card, to such appointee, which shall be his warrant of authority to be present during the election and to be inside the railed

enclosure during the counting of the ballots. If any person so appointed as agent fails to serve or shall be absent for any part of election day, the clerk may issue a permit to the substitute or alternate, who may act instead of such absentee or person failing to serve. — *Wisconsin Statutes, sec. 46.*

[10] **The Voting Booth.** — The room is divided by a guard rail into two portions, the public being kept outside of the rail. The guard rail is required by law to be not less than five feet from both the ballot box and voting shelves.

Inside the rail are tables, one to accommodate the ballots to be given out, and a check list upon which the names of those receiving ballots are checked by ballot clerks from duplicate registry lists (where registrations are required); another for clerks of election to make poll lists where the names of those depositing ballots are entered, and another for the inspectors to check from registry list and for the ballot box. The entrance and the exit through the rail are marked.

The shelf to which one goes to mark the ballot is shown as placed against the wall.

The booths or shelves for marking ballots may be constructed as follows: Either nailed or screwed together immovably, or the partitions and shelves at the bottom arranged to fold, so that the shelf may be folded into compact shape, and easily put away for future use. This last device is suggested in order to lessen the storage space required for keeping shelves from one election to another. The dimension of shelves should be: depth, one foot six inches; width, from center of partitions, two feet; the partition should project six inches from shelf so as to screen voter. There should be one shelf for every fifty electors who voted in the district at the preceding election. Common wooden horses are the best means for supporting shelves, and may be easily stored away from one election to another. Cleats are nailed upon the bottom of the shelf to prevent the horses being pushed to one side or the other. The screen or curtain of cloth may be hung along in front of the booths or shelves, so as to screen the voter and his ballot from observation. This can easily be done by extending a strip of cloth a yard wide along in

front of the booths or shelves, the upper side being 6½ feet from the floor and hanging down the width of the cloth.

The rail requires solidity and strength to withstand considerable pressure, and may consist of strong posts, securely fastened in floor, with a 2x4-inch hand rail from three feet to three feet six inches from the floor. There should be some kind of a gate to guard both entrance and exit—say like a turnstile. — *Wisconsin Election Laws, p. 71.*

[11] **Swearing in a Vote.** — When a person who has been challenged insists upon his right to vote, the inspectors are required to put to him a "preliminary oath" in which he is asked to swear that he will truly answer all questions put to him regarding his place of residence and his qualifications as a voter. If he takes this oath, the inspectors must then ask him his name; his residence; where he lived before he entered the election district; whether he is a native or a naturalized citizen, and if naturalized, when and where he was admitted to citizenship; whether he came into the election district for the purpose of voting there; and how long he intends to reside in the district. If he refuses to answer any of these questions, his vote must be rejected. If he does answer them and his anwers seem to disqualify him as a voter, the inspector must point out to him the respect in which he seems to be disqualified. If he then still insists that he has a right to vote, the inspectors are required to administer to him the "general oath." This oath compels him to swear that he is in all respects a qualified voter; that he has not engaged in any form of bribery of voters; that he is not interested in the result of any wager on the election; and that he has not been convicted of any crime which would debar him from voting. If he refuses the oath, his vote must be rejected; but if he takes the oath, his ballot must be received. The inspectors of election are not empowered to reject the ballot of any person who takes the required oaths, even though they may be convinced that it is fraudulent; but any person making a false oath is liable to arrest and severe punishment. The challenge is intended to prevent bribery and repeating and to confine the voting privilege to persons who are legally entitled to it. — *Fuller, op. cit., p. 101.*

CHAPTER VII

THE INITIATIVE, REFERENDUM, AND RECALL

DURING recent years there has been developing a more or less widespread distrust of legislative bodies, especially state and municipal. We have seen how city councils have been gradually deprived of one important power after another until they have left little of their early importance. Formerly it was a distinction to serve as an alderman, but now a small percentage of the citizens of the average city can even name the members of their city council. The difficult work of city government is done by appointed officials. The state legislature has fared much the same; its history has been one of steady decline since the early days of our national history. More and more of its prerogatives have been taken away, and it has been hedged about by constantly increasing constitutional limitations. More and more of the details of government have been put into the constitutions to remove them beyond the reach of the legislator.

This has resulted in the decline of the character of men elected to the legislatures and councils. Indeed, the two conditions have worked together, being at the same time cause and effect. Men of ability have been

little attracted by such positions, but have directed their energies toward the more remunerative field of developing the natural resources of the country, while many of the men that have devoted themselves to state and local politics have been of a character not to unduly stimulate public confidence. They have not been forceful and far-sighted, but have been dominated by interests at variance with the welfare of the general public. The people have seen valuable franchises voted away, have witnessed vast natural resources pass under the control of great corporations, and have seen laws enacted which enriched the rich and impoverished the poor. At the same time they have seen popular laws defeated, have been confronted in their efforts to secure child labor laws, laws limiting the hours of labor, and electoral reform laws, with the organized lobby of the great capitalistic interests, and they have found that it is not always possible to prevent the enactment of laws to which they are opposed, or to secure the passage of laws in which they are interested, through the ordinary channels of legislation. This distrust and the unrest that has accompanied it has led to a great movement to restore the reins of government to the people, and to make the will of the people the law of the land.[1]

This movement has worked many changes in our governmental structure. It has among other things led to many electoral reforms. The direct primary and the non-partisan ballot are results which it has brought. The direct election of United States senators,

and the proposed primary for the nomination of president may be placed at its door, while the short ballot, the commission form of government, the limitation of campaign expenses, and many other reforms, are directly traceable to its onward progress. But by far the most far-reaching and fundamental achievement which it has wrought, and that which may prove most effectual in restoring to the people an effective control over legislation, is the introduction of the initiative, referendum, and the recall. By the first, the people may initiate any law which they desire; by the second, they have an effective veto on any enactment of the legislature to which they are opposed; and by the last, they may recall any public official who is no longer satisfactory. The first two are devices of direct legislation by the people, while the last is a means of electoral control over public representatives.

Although euphony places the initiative first in the trio, a logical discussion should perhaps begin with the referendum, since it is the more common device of the two and less an innovation in our political system.

I. The Referendum

The referendum is neither as new or as novel an institution as it has sometimes been thought to be. Its use has been the development of nearly a century.

(1) Development of the Referendum. In democracies, of course, all legislation is direct; it is enacted by the popular assembly. But in representative govern-

ment in this country the referendum was made use of first in the adoption of state constitutions. The Massachusetts constitution was submitted to a vote of the people in 1778, and was adopted the following year by a popular vote. Finally this came to be the common way of adopting a constitution, and only four constitutions have been adopted in any other way during the last fifty years. In the same way most constitutional amendments must now be submitted to the people for approval before going into force.

The next step was the submission of local laws to the localities concerned for adoption. It early became the practice to submit laws changing county boundaries, or establishing county seats to a popular vote in the counties concerned. With the growth of cities, it became common to enact charters which should go into effect only after being adopted by the people at a special election for that purpose. And it has been common practice to enact laws providing for local option, the sale of bonds, the creation of indebtedness, etc., which should not take effect until adopted by a popular vote of the locality concerned.

From these practices it was not a great innovation to give the people the right to vote on whether any law passed by the legislature should become effective.

(2) Method of Operation. As now in use the referendum is of two kinds, obligatory and optional. All states except one require constitutional amendments to be submitted to a vote of the people at a general elec-

tion before they can go into force. That is, in the case of constitutional amendments the referendum is obligatory. In the same way many different kinds of laws are subject to the obligatory referendum. The granting of franchises, the issuing of bonds above a certain amount, the changing of county boundaries or county seats, are subject to the obligatory referendum in many states. When such laws are enacted they contain provisions determining the time and manner of submission. The constitution usually states what enactments shall be subject to the obligatory referendum.

The optional referendum, on the other hand, is put into operation only at the option of some public body or the people. Thus the legislature may enact a law and provide that it shall not become effective until it has been submitted to a referendum of the people. Such laws are frequently passed by state legislatures upon subjects with regard to which there are strong differences of opinion, and it wishes to throw the responsibility of putting it in force upon the people. But the popular form of the referendum, and the form which is usually in mind when mentioned in present-day politics, is the one which may be invoked at the option of the people. Several constitutions now provide that any law passed by the legislature shall be subject to referendum if demanded by a certain percentage of the voters.

This is the most important form of the referendum. If a law is enacted by the legislature which is obnoxious

to the people, they may petition its submission to a vote of the people, and if the petition is signed by the requisite number of electors, an election is called and the question of whether it shall become effective or not is decided at the polls. If a majority of the electors voting upon the proposition vote in favor of it, it becomes effective; but if a majority vote against it, it becomes null and void, and of no binding force upon the people whatever, just as though it had never been enacted by the legislature. Thus the people are given an absolute veto upon the acts of their representatives.[2]

The influence of the referendum has been two-fold. It has not only given the people an effective control over legislation, but it has freed the legislature from the corrupting influence of the insidious lobby. Great corporate interests are not going to spend large sums of money to secure the enactment of favorable legislation when they know that by a simple petition of a small percentage of the electors the entire matter must be submitted to a popular vote, and that their efforts will have been useless and their money wasted. In Oregon a petition of only five per cent of the electors voting at the last general election are required to secure the submission of any law to a popular referendum. But on the other hand the frequent use of the referendum will tend to relieve the legislator of his sense of responsibility and to make him more careless in his consideration of legislative measures. He will feel that his work is of less consequence since

Official Referendum Ballot

If you desire to vote for any question, make a cross (X) or other mark in the square after the word "yes," underneath such question; if you desire to vote against any question, make a cross (X) or other mark in the square after the word "no," underneath such question.

"Shall Chapter 227 of the laws of 1911, entitled 'An act extending the right of suffrage to women' be adopted."

YES ☐ **NO** ☐

A BALLOT FOR A CONSTITUTIONAL AMENDMENT
*Used in the vote on Woman Suffrage in Wisconsin election, 1912

it is liable to be overthrown at any time, and this in turn will tend to further discourage men of ability from seeking service in our legislative bodies. The referendum is an invaluable institution for placing an effective check upon ill-conceived or vicious legislation, and when used with moderation will prove a great

benefit; but when used to excess, like all good things, it will clog the wheels of good government and may discredit its own usefulness.[3]

The referendum may apply to local as well as state legislation. City ordinances, the action of county boards, and other local bodies may and are in several states subect to the optional referendum. What are known as advisory referendums are also provided in some states. These are merely for finding the attitude of the general public upon some public question, and may or may not be followed by the legislative body. Questions upon which legislation is contemplated are frequently submitted to an advisory referendum merely as a feeler.

II. The Initiative

The initiative as an instrument of direct legislation is of recent growth. Although in questions of constitutional amendment the sole power of initiation was given to the people in a few states at an early period, and the practice of instructing legislative representatives was followed in early times, no direct development can be seen between those practices and the initiative as it is used at the present time. It was not until South Dakota and Oregon devised their systems of direct legislation that the initiative became popular, or took upon itself its present form.

(1) Theory of the Initiative. The theory of the initiative is but an advance step in the development of the referendum. If the people should be given the

means of defeating legislation which they dislike, why is it not equally essential that they should be given the means of securing the enactment of legislation which they desire. It is frequently easier to secure the defeat of obnoxious bills through the ordinary channels of legislative procedure than to secure the enactment of desirable ones. The machinery of the referendum suggested its use for accomplishing this more difficult task. By means of the initiative the people can themselves enact any legislation which they desire.

The desired law is framed by those interested in its enactment in the form in which they wish it enacted.[4] Petitions for the calling of an election at which the question of its enactment may be submitted are circulated, and if the petitions are signed by the requisite number of electors the election is called, and the question of its adoption left to the determination of the people voting upon it. If a majority of those voting vote in favor of it, it becomes a law and of the same binding force as though passed by the legislature; if a majority vote against it, it is defeated and becomes a dead letter.

As a rule, laws enacted through the initiative cannot be repealed by the legislature within a period of years, but of course they may be repealed by the people at any time in the same way in which they were enacted.

An objection which is frequently raised to the initiative is that it offers a means by which those with hobbies may secure the enactment of their pet schemes

into law. Another is that laws written by laymen and submitted to the people through the initiative, without the consideration and discussion which accompanies the passage of a bill in the legislature, are apt to be loosely drawn, defective, and out of harmony with the general legislation of the state.

To overcome this last objection, some states have provided that before the bill can be submitted under the initiative, it must be presented to the legislature. The legislature may pass it as presented or may amend it and then enact it. If satisfactory no further action is necessary, but if not satisfactory, the original bill may then be submitted under the initiative and if adopted becomes a law, replacing the law enacted by the legislature. This process reduces the number of initiative elections held, and in many cases undoubtedly improves the nature of the laws enacted.

The great danger in connection with both the initiative and referendum is that they may be invoked too frequently. The electorate may decide questions of policy; it can determine whether legislation of a certain kind is desirable; but it is scarcely qualified to determine the exact form which the laws shall take — that is a task for the technical lawmaker. Questions of this latter kind cannot be decided by yes or no; a law may be good in all respects but one, and in that respect may contain a provision which vitiates the whole, yet the voter must vote for it as it is or reject it altogether.

As a whole, the experience of all states that have adopted the initiative and referendum justifies their retention. The votes cast have been comparatively large, and comparatively few mistakes have been made. Although thirty-two propositions were submitted to the voters of Oregon during the year 1910, twenty-three of them were defeated, and most people, according to Professor Haynes, admit that the people voted wisely. The advocates of direct legislation do not expect that the people will be legislating all the time. There is a limit to the time that the average citizen can give to the study of public questions, and there is a limit to the number of propositions upon which he can vote intelligently at one time. The initiative, referendum, and the recall are safety valves, emergency measures, intended to be used sparingly and only as measures of last resort.[5]

III. The Recall

Like the referendum, the principle of the recall is as old as our national existence, but it has been little used, in its present form not until the last decade. It will be recalled that in the discussion of the Articles of Confederation mention was made of the fact that the members of congress could be recalled at any time by the state legislature, as a means of keeping them representative of the wishes of the state. This was a recall by the legislature, not a popular recall by the electorate. The popular recall existed for many

years in some cantons of Switzerland, but it was not introduced into this country until 1903, when provision was made for it in the city charter of Los Angeles. Since that time, however, it has spread very rapidly. Nearly all of the two hundred cities that have adopted the commission form of government may exercise it, while provisions for the recall of all elective officers are found in the constitutions of an increasing number of states.

(1) Principle of the Recall. The recall is not an instrument of direct legislation, but an instrument of administration. In business pursuits an employee is retained no longer than his services are satisfactory. Why should not the same practice apply to public business? If an elective official no longer represents the constituency that elected him, why should he not be unelected by that constituency? Or if an elective official proves false to his trust, negligent of his duty, or unsuited to his post, why should he not be recalled and another elected in his place? It is on this principle that the recall is based.

(2) Mode of Operation. The recall is always invoked by a petition stating the reasons why the officer should be recalled, and asking that an election be called for that purpose. The petition must be signed by a certain percentage of the electors, and is usually checked to see that all signatures are of qualified voters. If there are more than one candidate to succeed the official sought to be recalled, a primary is held to nominate

just one. At the recall election the voters vote for one or the other. If the official sought to be recalled receives the majority of the votes cast he is vindicated and retains his office; but if his opponent receives a majority of the votes he is recalled, and his opponent becomes his successor. Thus the official is recalled and his successor is elected at the same time.

The recall in most cases is used only against elective officials and not against appointive officials, the theory being that the appointing officer should be held responsible for the character of his appointments. Furthermore, the recall should be used, as a rule, only against representative officers. Within the last few years a movement has been started for the recall of judges.[6] The increasing activity of the courts in declaring laws unconstitutional, and the feeling that they are the protectors of special interests against public interests has added greatly to its momentum. President Taft vetoed the first Arizona statehood bill because it provided for the recall of judges. The only state to provide for the recall of judges so far is California.

The advantages of the recall are obvious in some cases. It affords a means of keeping representatives of the people responsive to their constituents. It affords a means of getting rid of undesirable public officials, and it serves as a club over the head of the public officers to keep them vigilant in the interests of the public. But it also contains elements of danger. It can be used by the undesirable elements of the com-

munity to recall efficient officials and officers who are doing their duty faithfully. It also serves as a means for the minority party to menace and annoy the party in power. It should be safeguarded by a fairly high percentage requirement for the signers to the petition.

Since its introduction the recall has been used several times, notably in Los Angeles and Seattle. Recall elections have been held in a large number of instances in other cities, but in few cases have the officials been recalled, the elections being called in many instances by a disgruntled faction. Where there has been good reasons for the recall, it has usually succeeded. It is undoubtedly an effective way of getting rid of undesirable public servants, and if used with moderation should tend to centralize responsibility and pave the way for longer tenure in office.

SUPPLEMENTARY READING

CHAPTER VII

The Initiative, Referendum, and Recall

[1] **Reasons for the Movement.** — There has been no more striking phenomenon in the development of American political institutions during the last ten years than the rise to prominence in public discussion, and consequently to recognition upon the statute-book, of those so-termed newer weapons of democracy — the initiative, referendum and recall. By the *initiative* is meant the right of a stated percentage of the voters, in any state or municipality, to propose both constitutional and ordinary laws, and to require that, if these be not enacted forthwith by the state or municipal legislature, they shall be submitted for ratification to the whole body of voters. By the *referendum* is meant the right of a stated percentage of the voters to demand that measures passed by the ordinary lawmaking bodies of the state or municipality shall be submitted to the whole body of voters for acceptance or rejection. By the *recall* is meant the right of the electors in any state or municipality to end by an adverse vote the term of any elective officer before the expiration of the period for which he was elected. However opinions may differ concerning the inherent merits and defects of these agencies of popular government, or concerning their compatibility with a sound representative system, it is at all events not to be denied that they have gained, during recent years, a remarkable hold upon the confidence of a large and apparently growing portion of the American electorate.

For this growth in popularity a twofold reason may be assigned. On the one hand it is a logical by-product of a declining popular trust in the judgment and integrity of elective legislators. The

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Where much of the Foreign business of the United States is handled

calibre of the representative body, whether in state or city, is not what it used to be, and of this deterioration public opinion has taken due cognizance. Whatever the reasons therefor, and they are probably too complex to warrant easy generalization, the symptoms of legislative degeneracy have grown too plain to be disregarded. Resort has accordingly been had to the most superficial of prudential measures, which is to take away from the wicked and slothful servant even that which he hath. For maladministration in a democracy the electorate never regards itself to blame; the demos postulates its own infallibility. Hence it has sought to remedy the evils which seem to result from an unsatisfactory representative personnel, not by the adoption of measures designed to secure an improved grade of officeholders, but by reducing the final powers which the officeholders may exercise. In other words, the growth in popularity of direct legislation evinces a public disposition to revoke the trust rather than to change the trustees.

In the second place, the representatives of the people have themselves shown readiness to aid the movement. American legislative bodies do their work under serious handicaps arising from the lack of efficient leadership and from the division of power and responsibility which is inherent in the system under which they are expected to perform their functions. Thoughtful men, alike in the state legislatures and in the large city councils of most American cities, have come to realize that efficient legislation requires both leadership and the centralization of responsibility; American legislative bodies have possessed neither. In the absence of these features, sinister influences come into full play upon the floors of legislative chambers. Representatives find that they can take sides on many questions of policy only by placing themselves in such position that they are bound to antagonize some powerful organized interest, no matter which side they may take, so that to turn the whole matter over to the issue of a popular referendum constitutes for them the line of least resistance. The referendum in particular has thus become the Torres Vedras of the legislator whose first care is for his own political future. The practice of passing bills to enactment "with the referendum attached," has become common in many states dur-

ing recent years, and measures for which the legislature is not ready to take full responsibility are being more and more readily turned over to the electorate for acceptance or rejection. At first an exceptional procedure, this practice has shown a tendency to seek recognition as a normal method of lawmaking; the legislatures have taught the voters to expect that they shall be freely called upon, not only to select representatives, but to give a direct decision upon issues of policy. Hence appear the two outstanding reasons for the recent development of direct legislation in American state and municipal government. A declining public confidence in the efficiency and integrity of legislators, and a readiness on the part of representatives to place upon the shoulders of the voters a responsibility which ought properly to remain upon their own; these two tendencies have combined to give direct legislation its growing vogue.— *William B. Munro, "The Initiative, Referendum, and Recall," p. 1.*

[2] **The Referendum and Judicial Decisions.** — As ordinarily understood the Referendum applies only to acts of the legislative body. Inasmuch, however, as judges in the United States exercise the prerogative of declaring legislative acts unconstitutional or of interpreting them to mean something less or something else than they were generally supposed to mean, it has been suggested that certain judicial decisions be subjected to the Referendum. This might take the form of a general optional Referendum on all decisions relating to statutory law or it might be an optional or an obligatory Referendum on all decisions declaring statutes void as being unconstitutional. It would naturally be limited to the decision of the court of last resort in the particular case or to the decision of the highest court in the political subdivision directly concerned. In so far as the Referendum was limited to judicial decisions setting aside statutes, it would be within its natural scope as a check upon legislative action; for the unmaking of a statute is legislation as clearly as the making of it. It would seem to be an especially appropriate procedure to appeal to the people as final arbiter in these cases of conflict between two branches of the government. As I have already said elsewhere in this book, there are strong reasons for not depriving the

American judiciary of its peculiar jurisdiction over the constitutionality of statutes, and with the Initiative available for the amendment of the constitution in the light of new judicial interpretations, it cannot be said that the Referendum on judicial decisions is strictly necessary. Yet its regular use as a means of finally settling a disputed interpretation between the legislature and the judiciary would furnish a more direct and less cumbersome method of enforcing the people's will than would be available under the Initiative. At the same time the people would still be able to go to the judiciary as a ready protector against the usurpations of the legislature. In fact, the courts would merely have power to suspend the operation of a statute pending an appeal to the electors. A judicial decision would have the same effect as the filing of a Referendum petition against a law, except that the decision need not be made within a specified time or before the statute went into effect. In this way the procedure would not be so much a Referendum on the court's decision as a judicial mode of applying the Referendum to legislative enactments. In other words, the courts would then have a suspensory veto or repeal of statutes instead of the absolute veto or repeal now vested in them. Who can rightfully speak of this suggestion of Mr. Roosevelt's with derision, as if it were the product of a disordered imagination? There is nothing about it that is contrary to the genius of American institutions, and it offers a possible remedy for a political condition that has become acute. A recent investigation shows that during the seven years from 1902 to 1908, inclusive, no less than 468 different statutes were declared unconstitutional by the highest courts in the several states of the Union. Such a condition of affairs cannot be ignored. If the Referendum is to be applicable to all legislation, it should lie against these judicial decisions. "If the courts have the final say-so on all legislative acts," says Mr. Roosevelt, "and if no appeal can lie from them to the people, then they are the irresponsible masters of the people." Again he says, "The power to interpret is the power to establish; and if the people are not to be allowed finally to interpret the fundamental law, ours is not a popular government."

If, however, all decisions affecting statutory law, involving

mere secondary interpretation as well as repudiation, were to be made subject to the Referendum, confusion would be likely to result. The Initiative and the Recall are more appropriate remedies than the Referendum, for the misuse of purely executive, administrative, or judicial powers.—*Delos F. Wilcox, "Government by All the People," p. 164.*

[3] **Experience in Oregon.** — But does this "new birth of democracy" promise permanence of the good and progress toward the better? It must be confessed that the election just past has given its notes of warning. In the first place, the ballot was a preposterous thing. "It's like voting a bed-quilt" was the comment of one of the policemen at the polls. Experience will certainly prove that the "short ballot" movement and the "people's rule" movement must go together. The voter's task must be made reasonable. Not even the allowing of two months for the conning of a campaign book can make it reasonable to expect that the voters, at a single election, will choose with discrimination forty-five officers from a list of 131 candidates and then vote with intelligence upon thirty-two measures of every variety and grade of importance. It is generally conceded that a considerable proportion of the measures were absurdly unsuited to be voted upon by the people of the entire state. This was certainly the case with the eight county bills; the three normal-school bills probably belong in the same class; and at least two other measures were of little general interest. The men who have had most influence in introducing "people's rule" in Oregon are not blind to this defect. In the first draft of the measure for reconstituting the legislative power there was a provision that the number of direct legislation measures to be voted on at any one election should be limited to twelve, and this clause was strongly supported by argument from theory and from Oregon experience. It was found, however, that this proposed limitation upon the voter's power was unpopular, and it was accordingly thought best to cut it out lest it should imperil the entire measure. The Oregon voter has found that he can make laws, and he is little impressed by the argument that he would do this work better if he attempted less of it at one time.

On the whole, considering the immense complexity of the task which was set before them, it must be acknowledged that the Oregon voters stood the test remarkably well. They detected and repelled covert attacks upon their own power; they rejected measures so radical as to arouse doubts; they gave their approval of laws which, in the main, are consistent and develop the system already adopted.— *George H. Haynes, quoted in Munro; "The Initiative, Referendum, and Recall." pp. 274, 277.*

[4] **Laws Drafted by Friends.** — Bills introduced in the legislature are frequently the handiwork of outside parties, either persons having a pecuniary interest in the proposed legislation, or persons engaged in other branches of the government service or persons or organizations taking special interest in public affairs from patriotic motives. Whatever may be the actual origin of legislative bills, they are subject to amendment in committee either by the legislators on their own motion or at the solicitation of outside parties. This power of amendment sometimes makes a bad bill good, and sometimes makes a good bill better, but often it makes a good bill weak and ineffective. When special interests seek legislation for their own benefit, it is a fine thing to have their bills scrutinized with a sharp eye and worked over for the protection of the public interests. When legislation is proposed in awkward and incoherent forms, it is well to have legislative committees whip the measures into shape before enacting them. But when progressive legislation in the general interest is sought, the opportunity for amendment in the course of legislative procedure is often abused by hostile members who dare not openly oppose the measure. It is the despair of reform to see its measures fall into the hands of the legislative surgeons who proceed to emasculate them, pull their teeth, or reduce them to ineptitude in some other way.

One of the great advantages claimed for the Initiative is that it would provide a method by which new legislation could be drafted by its friends and submitted to a vote without amendment. Direct primary measures intended as a cure for machine politics would not then be worked over in the process of enactment until they become instruments for the perpetuation of

bossism. Indeterminate franchises meant to perpetuate the public control of the streets would not then be perverted into perpetual privileges for unregulated spoliation. Grants of authority to municipalities to engage in public services would not be made ineffectual by the imposition of impossible financial conditions. The men who want a measure to succeed could have the framing of it. Those who want it to fail would be restricted to voting against it at the polls. In this way issues would be simplified and reforms could be secured promptly. The political struggle to secure them would more often be clear-cut and brief. The intolerable nuisance of having to fight year after year to secure a particular reform inch by inch only to find when it is finally secured in full measure that other abuses have been growing up unheeded, would no longer be so common an experience. Instead of having to devote our energies to a persistent, almost superhuman effort to accomplish one little thing, we could deal with each problem effectively as it presents itself and keep the docket clear instead of having it perpetually cluttered up with things needing attention but not getting it.

Work, to be most effective, must always be done with the heart as well as the hand. The Initiative would make it possible for the heart and the hand to work together.— *Wilcox, op. cit., p. 112.*

[5] **Effect of Direct Legislation.** — My expectation is that its effect will be as follows: This institution will assist the people, the body of the electorate, in the development of its political consciousness; the consciousness of power which it brings will assist in that direction. Second, it will make the body of the electorate more familiar with legislative problems and more interested. In Athenian democracy, every citizen was supposed to take part in all the functions of government, to judge, administer, elect. That is no longer possible, but nothing will so train the electorate to see the difficulties and problems of legislation, and to form an intelligent judgment about them, as having to solve those problems itself at times. Moreover, it will increase the interest of the people in the legislatures, as being organs which are constantly engaged with dealing with these important matters; and finally it will serve to increase the sense of responsibility of these bodies.

The proposed law of Wisconsin is based on the idea that the initiative and referendum is to be an agency for assisting the legislature, but in no way making it superfluous. Accordingly any measure that is introduced into the legislature, whether passed or rejected, but only such measures, may be referred to the electorate. Thus every bill that goes before the people must have had the benefit of being discussed there and acted upon, whether favorably or unfavorably. In this way it is intended to protect the importance of the legislature, and even to increase it by centering there the public interest. If in this connection we consider the growth in importance of state governments, we see how an opportunity is given for a governor, if he is a constructive statesman, to have his measures introduced in the legislature, to have it known that they go with the endorsement of his political judgment, and if they are defeated in that body to have them called out and referred to the public.

It is not believed that the people will be constantly legislating. That is where most of the opponents of the system argue wrongly, one might almost say deceitfully. The recall is a power to be used only very rarely, and the referendum is, perhaps, best understood as giving the electorate the right and power to make itself felt at any time without revolutionary action. We are living at the present time in a period of almost revolutionary energy, but that will pass away. These energies are not permanent; it is necessary to count upon the steady interest of the public in politics, but of that we cannot expect too much. Our constitutional machinery ought to be so adjusted that the force of public opinion would be sufficient to start, stop or control it. There ought to be means by which the public can obtain a specific law which it demands and which is blocked by our state legislatures.

The initiative and referendum will introduce clearness and logical sequence into our political action, and center the public interest on legislative problems, but will not mean that every matter of legislation will be laid before the electorate to the wearying of political energies. The Wisconsin legislation is an experiment, but one which bases itself upon the premise that the legislatures are performing a function that cannot be fulfilled by mere voting, and that this function must be strengthened, elevated, and puri-

fied, but not extinguished or passed over to a body which cannot deliberate as a legislative body can. It is thus that I consider the initiative and referendum to be a reform in true harmony with the great movement which is passing over our nation at the present time.— *Paul S. Reinsch, "The Initiative and Referendum," in Proceedings of the Academy of Political Science, Vol. III, No. 2, pp. 158, 160.*

[6] **The Recall of Judges.** — If in any given state the system of an elective or an appointive judiciary without a recall has proved in actual practice to work badly (as it certainly proved to work badly in California), then practical reformers who are working for the betterment of popular conditions are quite right in trying to substitute for it some other system. The all-important thing is the spirit in which the system is administered. If in any State the adoption of the recall was found to mean the subjection of the judge to the whim of the mob, then it would become the imperative duty of every good citizen, without regard to previous prejudices, to work for the alteration of the system. If, on the other hand, in any State the judiciary yields to improper influence on the part of special interests, or if the judges even, although honest men, show themselves so narrow-minded and so utterly out of sympathy with the industrial and social needs brought about by changed conditions that they seek to fetter the movement for progress and betterment, then the people are not to be excused if, in a servile spirit, they submit to such domination, and fail to take any measures necessary to secure their right to go forward along the path of economic and social justice and fair dealing. If our people are really fit for self-government, then they will insist upon governing themselves. In all matters affecting the Nation as a whole this power of self-governing should reside in the majority of the Nation as a whole; and upon this doctrine no one has insisted more strongly than I have insisted, for in such case "popular rights" becomes a meaningless phrase save as it is translated into National rights.— *Theodore Roosevelt, quoted in Beard and Shultz, "Documents on the Initiative, Referendum, and Recall," p. 66.*

This provision of the Arizona Constitution (The Recall of

Judges), in its application to county and State judges, seems to me so pernicious in its effect, so destructive of independence in the judiciary, so likely to subject the rights of the individual to the possible tyranny of a popular majority, and therefore to be so injurious to the cause of free government, that I must disapprove a Constitution containing it.

But the judicial branch of the government is not representative of a majority of the people in any such sense, even if the mode of selecting judges is by popular election. In a proper sense, judges are servants of the people; that is, they are doing work which must be done for the government, and in the interest of all the people, but it is not work in the doing of which they are to follow the will of the majority, except as that is embodied in statutes lawfully enacted according to constitutional limitations. They are not popular representatives. On the contrary, to fill their office properly, they must be independent. They must decide every question which comes before them according to law and justice.

What I have said has been to little purpose if it has not shown that judges to fulfill their functions properly in our popular government must be more independent than in any other form of government, and that need of independence is greatest where the individual is one litigant, and the State, guided by the successful and governing majority, is the other. In order to maintain the rights of the minority and the individual and to preserve our constitutional balance we must have judges with courage to decide against the majority when justice and law require.— *Ex-President Taft in veto messoge on the Arizona Constitution, quoted in Beard and Shultz, op. cit., p. 250.*

CHAPTER VIII

REFORMS AND REFORM AGENCIES

FROM the brief and summary discussion of the complex organization of our great American system of government which the limited space of these volumes has permitted, it must be apparent that every government is a great human machine. It does not consist merely of the plan of organization, the constitution, the laws, and statutes, or of the public officials who are selected to operate it, but of all of these, and more. It embraces all of the political machinery inside and outside of the government proper, the political parties, political practices, and the political organizations of all kinds. And it embraces even still more; it embraces the semi-political and semi-scientific organizations, and the private citzenship organizations which are working toward the improvement not only of our governmental system and the character of the officials selected to administer it, but which are working to improve living conditions, to reduce human suffering, to increase human pleasure and to uplift mankind. A thorough understanding of our system cannot be reached without some knowledge of these.

There are many organizations and institutions that

influence legislation outside of political parties. There are semi-governmental institutions which have for their purpose the improvement of statute law and of our governmental organization; there are semi-public and semi-private associations which direct their activities toward the improvement of our administrative system; and finally, there are private organizations that exert a tremendous influence on government. A few of these should be mentioned before closing our discussion of practical politics.

(1) The Legislative Reference Department. An institution which is exerting a greater influence than any other upon the character of our statute law and our administrative system is the legislative reference department. These departments are departments of information for the members of the legislature. With the growing complexity of our social and economic conditions, the difficulty of enacting effective and wholesome laws has become more difficult. In the early days few laws were required. The activities of the state were not then concerned with the regulation of economic interests; these were taken care of by the natural laws of free competition. But with the growth of monopolies and trusts the task of the legislator has been made immeasurably more difficult. He must frame laws to regulate these great interests and to protect the interests of the people; he must frame laws that fit into our constitutional system, that do not infringe the rights of property or contract, and that

harmonize with the social, economic, and political conditions under which they must work.

Back of the judiciary, on the other hand, there has developed a great body of jurisprudence to guide the court. In passing upon the constitutionality of a law the judge has this great storehouse of knowledge to draw upon. In addition, he is assisted by the briefs of the trial lawyers on both sides, by the arguments of the attorneys, and all phases of the case are brought out before he is called upon to render his decision. Thus all the information has been on the side of the courts. The legislator has worked alone, or with those who have had personal interests to serve. The farmer legislature has been given the task of drawing laws against which are sure to be arrayed the brains of the legal profession and the wealth of the capitalistic class in an effort to break them down.

The legislative reference department is created to place back of the legislator the information and data necessary to assist him in the enactment of these laws. It aims to place him upon a par with the judiciary in so far as ready knowledge is concerned. It collects the laws of all the states, studies the practice of legislative procedure, examines the decisions of the courts, and employs expert draftsmen to assist the legislator in putting his bills in proper legal form. When the farmer or groceryman who has been elected to the legislature, and who is absolutely ignorant of the process of lawmaking, wishes a bill prepared upon a

certain subject, he can go to the legislative reference department, find whether any such law has ever been enacted, and if so, where, what were its provisions, how it worked, and whether it stood the test of the courts. He can discuss the various phases of the bill with the legal advisors of the department employed for that purpose, may leave his instructions with regard to the provisions which he wishes incorporated in his bill, and the legislative reference department prepares the bill for him, and he introduces a bill that is properly drawn, that contains no unconstitutional provisions, and that has no joker inserted by some supposed friend in the interest of some private corporation.

The first department of this kind was established by the Wisconsin legislature some ten years ago, and under the direction of Dr. Charles McCarthy, has been a pioneer in this movement to improve the character of statute law.[1] Within this period two-thirds of the states of the union have followed Wisconsin's example and established departments of this kind. In Wisconsin and several other states they have been made separate departments, but in others they have been developed in connection with the state law libraries. The work of these departments is having a tremendous influence upon the staute law of the country.

(2) The Municipal Reference Bureau. What the legislative reference department does for the state legislature, the municipal reference bureau does for the city official. It serves as a clearing house for municipal

information and experience. It collects information and data upon all the problems with which the city official is confronted. It gathers city ordinances and city reports from the various cities of the country, collects articles upon various phases of municipal activity, and supplies this information to the officials of the city or to citizens who can use it to advantage.

One of the first departments of this kind was the Municipal Reference Department of the city of Baltimore, of which Dr. Horace E. Flack is in charge. Milwaukee, Kansas City, and several other cities soon followed, and now a large number of these departments have been established in the larger cities of the country. They serve to familiarize the city official with the activities of other cities, to avoid the mistakes other cities have made, and to reduce to a science the administration of city government.

But individual departments of this kind are only possible in large cities because of the expense. In 1909, therefore, the Extension Division of the University of Wisconsin established a Municipal Reference Bureau to serve all the cities of the state.[2] Since that time several universities throughout the various states have established such bureaus. These bureaus collect information on municipal subjects for all the cities of the state. They make special reports to cities on various phases of municipal administration and the problems of cities. They also serve as mediums for correlating the various agencies of the state and placing

them all at the disposal of the city officials and citizens of the state; they connect the city official with the experts who are employed in the various departments of the state administration. When requests for advice come in, that information is secured from the department best equipped to give it, the engineering department of the university, the railroad or public utility commission, the tax commission, the state board of health, or the department which is specializing in that line. In this way the city official is given the benefit of the best knowledge and skill in the employ of the state and the state is made to more fully realize its proper function — to serve the people of the state.

(3) The Voters' League. The reference departments are institutions intended to assist the public official in the scientific and economic discharge of his functions. They are established by public authorities — created by the legislature or established by the city council — and are, therefore, official agencies. Another agency that has been working along another line is the voters' league. The voters' league is a citizens' organization and has devoted its energies toward the choice of the right kind of men to be elected to public office. They have sought to improve government by improving the personnel rather than assisting the official after he is elected — they have left that to other organizations. Their method has been to eliminate the undesirable candidates, and to elect the desirable candidates. As fast as candidates announce themselves for office

the league investigates their records. It endeavors to ascertain if they are honest and upright, of good character, able, and not tied up with interests which will prevent them from giving good public service. If its investigation shows them to be desirable, it endorses their candidacy; but if the investigation shows them to be undesirable, the facts are presented to the members of the league, frequently published, and they are advised not to vote for such candidates.

One of the most notable and most successful of such organizations was the Chicago Voters' League,[3] which was organized in 1896 at a time when the city council contained within its membership over fifty councilmen organized for the purpose of public plunder. After five or six campaigns devoted to the investigation and exposure of undesirable candidates, it purged the city council of grafters, and secured the election of men in whom the public had confidence. Chicago is the only large city that has succeeded in improving its government without reorganizing its organization; it improved and raised the standard of the personnel. And the chief agency in this reform was the Voters' League. Such organizations can exert a tremendous influence upon the character of any government.

(4) The League of American Municipalities. Another type of organization that is undoubtedly exerting an influence on the efficiency of government is the organization of public officials. The officials of various states and cities have organized themselves into organ-

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izations for the discussion of their particular problems. We have already had occasion to mention the Conference of Governors which was called by President Roosevelt in 1908, and which has held annual sessions ever since for the discussion of problems which confront state executives. In the same way other officers have their organizations — the tax commissioners, the fire wardens, the civil service commissioners, etc.

Undoubtedly one of the most important organizations of this kind is the League of American Municipalities.[4] This is composed of the city officials of the various cities of the country. An annual convention is held, and delegates from a large number of cities attend. Cities become members of the league by paying annual dues and sending delegates to the annual convention. The convention meets in one city one year and in another city the next year. The papers and proceedings of the convention are published and form a very valuable collection of material on the problems of city government. Being composed of city officials, the problems are discussed from the point of view of the man who is grappling first hand with these problems, and the chief value of the convention lies in the fact that the officials find how administration is carried on in the various cities. It serves as a clearing house for municipal experience in practical administration. The league also publishes an official journal and has done some work along the line of maintaining a central information department.

(5) State Leagues. Similar leagues have been organized in various states. One of the oldest and most successful is the League of California Municipalities, which was organized in 1898 and contains over one hundred and fifty cities in its membership list.[5] Another is the League of Wisconsin Municipalities, which was organized in the same year and also has a very large membership. Michigan, Indiana, Iowa, Kansas, Oregon, Washington, and several other states have similar organizations. Their object is to bring together the various city officials of the state into one organization where the problems daily confronting them can be discussed and municipal experience exchanged. An annual convention is held, and usually other activities are engaged in during the year. Several have official publications.

The League of California Municipalities publishes a monthly magazine which is sent to all the members of the league each month. The Wisconsin league publishes a more pretentious magazine, The Municipality, which is issued bi-monthly. Those leagues which do not publish a regular periodical publish the proceedings of their convention in a separate volume. These leagues also sometimes maintain reference departments or information bureaus, and frequently conduct municipal exhibitions in connection with their conventions, at which all kinds of municipal machines and appliances are displayed, together with various supplies and materials.

(6) The National Municipal League. In addition to the leagues of officials, there are various citizens' leagues devoted to the study of governmental problems and the improvement of governmental organization. The National Municipal League is an illustration of this type of organization.[6] It is made up of members from all over the country who are interested in municipal betterment. An annual membership fee of five dollars per year, which entitles the holder to all the publications of the league, is charged. It was organized in 1894, when the first so-called Conference for Good City Government was held in Philadelphia. Annual conferences or conventions have been held in various cities since. Until 1912 the proceedings of these conferences were published in a separate volume, a collection of very valuable material on city government; but in that year the league began the publication of the National Municipal Review, a quarterly devoted to the discussion of municipal questions, and the publication of the papers read before the conferences.

Within the last two years the league has also begun the publication of a series of volumes on various municipal subjects. Volumes have already appeared on commission government; the initiative, referendum, and recall; the regulation of public utilities; and the social center; and future volumes will be devoted to municipal home rule, and similar subjects. Some of the committees of the league have done some very valuable constructive work on different municipal problems.

The best known of these are the reports of the committee on the municipal program, on uniform municipal accounts, and on instruction in municipal government.

(7) The Woman's Municipal League. Leagues with similar purposes have been organized in individual cities. The Civic League of St. Louis, the Detroit Municipal League, the Woman's Municipal League of New York City, and the municipal leagues of other cities are examples. In most cases these perform the work of both voters' leagues and of municipal improvement associations. Their aim is to improve city government, lower taxation, and make the city service more efficient. They frequently make extensive investigations of specific subjects, such as smoke abatement, sewage purification, and the oiling of streets; and their reports upon these subjects contribute frequently the information upon which city councils take action. Such organizations usually back up their reports with aggressive work to secure their adoption and consummation. Many have legislative committees to secure necessary legislation from the legislature.

Leagues of this character are not confined to men, but many cities have women's municipal leagues. The Woman's Municipal League of New York City is one of the largest and most successful; it has a membership of between 1,500 and 2,000 members. It investigates all branches of the municipal service, and especially those affecting the home. Its committees on dance halls, moving picture theaters, drinking fountains, the

collection of garbage, housing, and streets have done very effective work.[7]

In the state of Wisconsin the woman's clubs of the various cities of the state have formed a federation and hold an annual convention.

(8) The enumeration of other organizations which are organized for the purpose of improving government and bringing influence to bear on the various branches of government might be indefinitely continued, but enough has been said to suggest the importance that such organizations have and the part they must play in a popular government. There are housing associations, city planning associations, associations for labor legislation, uniform accounting, civic improvement, and for shortening the ballot, all working on a national scale, on congress, on state legislatures, and on city councils. Their activities play an important part in moulding public opinion and determining the character of our government.

SUPPLEMENTARY READING

CHAPTER VIII

Reforms and Reform Agencies

[1] **The Legislative Referendum Department.** — Will such a department help in the betterment of legislation? Let us consider for a moment how a law is actually made.

John Jones comes to the legislature. He is a good citizen, a man of hard sense, well respected in his community. He enters suddenly from the quiet of his native village into a new life. He comes to live in a new community. He is dogged about and worried by office seekers. His old friends and advisers are not around to help him. He finds that it is necessary for him to learn the ropes. He finds that if he is to represent his district he must introduce bills, and that he must in some way get those bills through the legislature. He must first of all get those bills drawn, and never having drawn a bill in his life, and not knowing how such things should be done, it is very hard work for him. He is confronted with two thousand bills on two thousand subjects, legal and economic. Complex questions which are not settled by the greatest thinkers to-day are hurled at his head. Even scientific subjects that the chemist or the physician or the man of science has had a hard time to deal with must be met by our John Jones, and that in the hurry and rush of committee work, and of his efforts to take care of the multitudinous duties placed upon him. If he is honest, he will try to draw his bills himself, or else he pays somebody to do it for him; but the easiest way is to consult somebody else. He finds around him bright men, well paid lawyers, men of legal standing, who are willing to help him in every way. It is easier to consult these bright men; and often, if he does it, he is lost. It is seldom that he finds a true friend.

They are there to look out for their own interests, and John Jones is legitimate prey. To get hold of him is their business. If he is honest and by persistent courage and sterling honesty fights his way through, pushes his bills on to become laws, those bills, having to do often with complex, technical subjects, and being drawn by a man unskilled in law, are thrown out by the courts.

Here then is the situation. We see the farmer, our good grocerman, even our small country lawyer, our successful manufacturer, our man of business, grappling at once, entirely unprepared, with the problem of making laws that represent every phase of industrial life. A few years ago the simple legislation could be more easily handled by these men; but now the great problems of the railroads, the telegraphs, the telephones, insurance, the vast complex things of our modern life, make it simply impossible for one man however bright or educated he may be to act intelligently upon one-tenth of the subjects which come before the legislature. When some new invention comes into being, legislation must deal with it; when some new situation comes up through the growth of new industries, then some new law must be made restraining or encouraging or in some way regulating these new conditions. It all goes to show how unfitted our old representative government is to meet the conditions today, and how utterly helpless any one man is when he has to meet these complex problems.— *Charles McCarthy, "Legislative Reference Bulletin," p. 9.*

[2] **The Municipal Reference Bureau.** — With the enormous concentration of population in cities and the enormous expenditures of money which it involves, a great number of new problems have arisen. As cities have become crowded, questions of housing and sanitation have appeared. As traffic and business interests have grown, problems of paving, dust prevention, and smoke abatement have been met — problems of water purification and sewage disposal, of milk and food inspection, problems of organization and administration, of accounting, regulation of public services, and special assessments, and a hundred and one other problems and questions incident to growth and the spread of social intercourse. These are great problems, and problems with

which the ordinary official, even though diligent, cannot familiarize himself during his short and busy tenure without assistance.

Yet these problems must be solved and solved largely in the same way they have been solved in other cities where similar problems have appeared. Municipal experience must be drawn upon. The mistakes of other cities must be avoided and the benefits of their successful experiments seized upon. London has had a sewage problem for a thousand years; Rome a housing problem for a much longer time. How have these problems been met? How did France solve the dust problem for her macadam roads following the introduction of the automobile? With what success have motorists been taxed for road maintenance in Massachusetts and the East? What cities have bath houses, comfort stations, playgrounds? How much did they cost and what are their plans? How are municipal buildings insured? What is the relative cost of the collection of garbage in different cities, or what is the most successful system of sewage disposal or water purification? What has been done and is being done in the various cities of the country and of the world? Many of these new problems in America are old in Europe.

Now these are the problems which the city official has to meet, and surely they are among the most complex with which public officials have to deal. If these problems are to be solved and solved wisely, if each city is to benefit by the success of other cities and profit by their failures, city officials must have access to all the available information and data to be had upon these various subjects. They must compare notes. For the failure of our municipal government in the past rests not so much with the system, although that has been bad, nor with the character of our officials, although that too has sometimes been bad, as with the fact that honest officials have been uninformed. When a question of the milk supply, of a wheel-tax ordinance, or of compelling the gas company to lay its mains before the street is paved, comes up, he is in a quandry to know what to do. Why should men who are successful in their private business make such dismal failures in handling public business? Why should we have a failure in the erection of a garbage crematory or sew-

age disposal plant? Frequently, because we have not profited by the experience of other cities. Why, then, can't we have the data which will show how they have been solved? This is what the Municipal Reference Bureau aims to do. It aims to place in the hands of the city officials information and data upon all the varied subjects of municipal activity and municipal government — to be a bureau of information, a clearing house for municipal experience and experiments. It aims to collect and furnish to the citizens of the state information on all subjects of municipal organization and administration, public works, public utilities, and public service rates, municipal employment, paving, sewage disposal, water supplies, and water purification, garbage disposal, parks and playgrounds, housing, street cleaning, street sprinkling, dust prevention, smoke abatement, city planning, civic centers, art commissions, care of city trees, schools, charities and corrections, health and sanitation, accounting methods, comparative statistics, commission government, home rule, civic organizations, markets, comfort stations, and all the other subjects of municipal interest, and to collect and maintain a file of charters and ordinances, and reports of the principal cities of the United States.— *F. H. MacGregor, in "Proceedings of the Minnesota Academy of Social Sciences," 1911, p. 55.*

[3] **The Chicago Voters' League.** — The Municipal Voters' League is an independent political organization the sole purpose of which is the election of honest and competent municipal officials in Chicago. It has confined its attention to members of the City Council. It is absolutely non-partisan and intensely practical. It was organized in 1896 by a Committee of One Hundred, composed of a Republican and a Democrat from each of the thirty-four wards then in the city, and thirty-two members chosen from the city at large without regard to residence or political affiliations. This Committee of One Hundred was the result of a meeting of about two hundred and fifty representatives of various clubs and organizations called together to devise some means of improving conditions in the City Council which had reached the final stage of open and shameless corruption and had become a most dangerous menace to the city. The Municipal Voters'

League thus formed consists of an Executive Committee of nine men, supported by a large general membership of many thousands of voters in all parts of the city, who signed cards in 1896, expressing approval of its purposes and methods, or who have since identified themselves with its work, or supported its recommendations at the polls.

By thoroughly investigating the qualifications and character of aldermanic candidates and fearlessly publishing the results of such investigations, the Municipal Voters' League has deservedly won the confidence and support of the honest and intelligent voters of Chicago. It assumes that character and capacity are the fundamental qualifications for useful public service; that men having these qualities will faithfully represent the people, treat justly all private interests and dispose of every public question on its merits. It represents, and it claims to represent, only those who approve of its purposes and its methods. It makes no pretenses of infallibility, and guarantees the future conduct of none of the candidates whose election it may advise. It simply recommends to the voters of Chicago that course which its investigations lead it to believe will be for their best interests; and it states concisely, but clearly, the facts upon which its conclusions rest. It has no political or personal interest to serve; no scheme to which it is committed. It knows neither creed, nor class, nor party. It has but one aim — the election of honest and capable officials, to whom the interests of the entire city are of paramount importance. It does not seek to foist on any ward a candidate of its selection. It does seek to coöperate in every ward with good citizens of every party in the formation and execution of plans for securing the nomination of men for whose election it can actively exert its efforts and its influence.— *Pamphlet of the League, quoted in C. L. Jones' "Readings on Parties and Elections," p. 21.*

[4] **League of American Municipalities.** — The League of American Municipalities stands for a more intelligent and efficient government of our municipalities, and this is the entire aim of the organization. The League is not a reform organization, is not committed for or against municipal ownership of public utili-

ties or any other definite policy, aiming only to collect and disseminate reliable and unbiased information, to the end that the municipal official may be aided in efficiently performing the functions of his office.

Its fourteen years' existence has proven the League's value to the municipal official. Some few cities maintain at a large expense a department of statistics for the assistance of their officials. The League of American Municipalities aims to supply to all municipalities this important service through the medium of the Bureau of Information conducted by the Secretary, and the monthly "City Hall," which is mailed to each official and head of department of membership cities. Reliable information can thus be promptly had upon all questions of importance to municipal officials.

A growing interest is everywhere evidenced in the work of the League, not only by municipalities, but by individuals and commercial organizations as well. There appears a commendable desire on the part of many not connected with municipal government in an official capacity to acquire an intelligent understanding of the problems which confront a municipal administration.—*League Pamphlet.*

[5] **League of California Municipalities.** — The California League includes in its organization all municipal officials and at its conventions it resolves itself into separate departments. The clerks, auditors, and assessors have a separate meeting for discussing accounting and kindred topics. City attorneys have their department for the discussion of legal questions. The engineers and street superintendents discuss their special problems among themselves. The League as a whole also has a meeting during a portion of each day.

In addition to this the State Health Officers' Association holds its annual meeting at the same time and place, and one joint meeting is held where some phase of municipal sanitation is the main subject presented.

Two years ago we added another feature to our annual meeting, a municipal exhibition. Here is exhibited the appliances and apparatus used in the performance of municipal work. At this

exposition the municipal official may familiarize himself with modern municipal machinery, and this has the same relative value to a municipal official that an exhibition of farm machinery has to a farmer. It is conducive of efficiency. During the first years of the League we held three-day sessions; now we consume a week. We aim to make that week as educational as possible. It may be likened to a university "short course series" in municipal administration. We aim to furnish instruction by experts. Those who prepare papers are selected with a view to obtaining men "who know what they are talking about." It is unfortunate for the speaker if he does not. The quizzing that he would receive would demonstrate his incapacity.

In addition to the formal discussions at the opening meetings, the bringing together of a body of men engaged in public work promotes discussion of municipal affairs. During the recesses, at meal times, wherever and whenever two or more men meet the discussions are continued and extended. Everybody "talks shop."

We found at the outset of the League's existence that if we were to maintain continuous interest in work, a publication of some kind would be necessary. Before the end of the first year the monthly publication, *California Municipalities,* afterwards *Pacific Municipalities,* was issued and is still serving the purpose of giving to the city officials of the state an epitome of the news affecting municipalities and timely articles concerning municipal affairs.— *H. A. Mason, in the National Municipal Review, Vol. I, No. 4, October, 1912.*

[6] **The National Municipal League.** — In January, 1894, the first National Conference for good city government was held in Philadelphia. As an outcome of the meeting the National Municipal League was formed a few months later, its membership being composed of local leagues in various cities. Since that time national conferences have been held in Minneapolis, Cleveland, Baltimore, Louisville, Indianapolis, Columbus, Milwaukee, Rochester, Boston, and Detroit. After each conference a volume is published containing the reports of proceedings, together with the papers and addresses presented at the meeting. The result

of this policy has been the putting forth of ten volumes which constitute a valuable library on municipal conditions in the United States. At first the league confined itself principally to the collection of information as to the actual condition of affairs in different cities of the country. After three or four years it became apparent to the moving spirits of the league that the reformers of the country needed *a constructive program.* As a result a special committee of seven, which numbered among its members several leading students of municipal politics, was appointed to collect the manifold lessons of municipal experience in the various localities of the United States, and present a practicable working plan for the guidance of municipal reformers throughout the country. The final report of this committee was made at the end of two years' study, adopted by the league and embodied in *A Municipal Program.*

This program has attracted wide attention, and has already had a marked influence on new legislation in some states and cities. The program undoubtedly has helped to clear the air and crystallize into practical form the best judgment of students of our municipal problems as to the legislative reforms needed.— *Delos F. Wilcox, "The American City," p. 402.*

[7] **Women's Municipal League.** — The purpose of the League is to promote among women an intelligent interest in municipal affairs, and to aid in securing permanent good government for the City of New York without regard to party or sectional lines.

Thus the Constitution defines the general lines on which the activities of the League have developed. The organization which was founded by Mrs. Charles Russell Lowell in 1897, contemplated including women from all parts of the city and of various aspects of life. It was intended to be a thoroughly democratic body of women, brought together by their interest in the city and their realization that the city was part of their intimate daily lives. It has no part whatever, either for or against, in the suffragist movement. In order to make practical this ideal, district organizations laid upon the lines of the city's local improvement districts were developed, each with its own government, and all were united

into a confederation forming the League as a whole, under the government of a Board of Directors, and the Central Council, made up of the Board of Directors, the heads of committees and the Chairman of the District Branches. All matters involving the city at large are determined upon by the Central Council, the general policy of the League in regard to parks, streets, tenements, etc., is agreed upon, and then each branch works out the development and detail of the general point of view according to the necessities of each individual neighborhood. Each Branch puts the emphasis of its work on whatever aspect of the City's life which seems most important to it. The Central body has standing committees on all the important Departments of the city and it is customary for the Chairman of each of these Committees to invite a member of each of the Districts to take a place upon her Committee. Beside the District Chairmen and Standing Committees, there are the officers usual to such an organization, President, first, second and third Vice-Presidents, Corresponding and Recording Secretaries, and Treasurer. We have a number of Honorary Vice-Presidents, who have shown an interest in the League, but are unable to do very active work at present. The directors are twenty-one, divided into three groups of seven each, one group going out of office each year. The membership consists of women interested in the general purposes of the League, who pay membership dues falling into different classes, ranging from $1.00 to $100.00. The officers are elected annually from the Board of Directors on nomination by a Nominating Committee, who post their nominations two weeks in advance. Nominations may be made from the floor.—*Mrs. Edward R. Hewitt, Annual Report of the President, 1911, p. 3.*

QUESTIONS FOR REVIEW. PART VI

1. What do you understand by a political party? Why are parties necessary under our form of government? Describe the usual organization of parties in this country? Enumerate the different methods of nomination. What was the legislative "caucus?" The congressional "caucus?" Explain the method of nomination by convention. By direct primary. By petition. What are the advantages and disadvantages of each method?

2. How is the president nominated? Why is the chairmanship of the national committee so influential a position? Discuss the electoral college. How has this worked out differently than the framers of the constitution intended? What are the purposes of registration? Name and describe the duties of the various election officers. Describe the arrangement of the voting booth. Describe the process of voting. Describe the various forms of ballots. What are the advantages of the non-partisan ballot?

3. What is meant by direct legislation? Explain the referendum. How is it put into operation? Explain the initiative. How is it put in operation? Discuss some of the advantages and some of the limitations of direct legislation. Explain the principle of the recall.

Explain how it is invoked. Name some of the things that should be taken into account in determining the number of signatures to the petition.

4. Explain the purpose of the legislative reference department. Of the municipal reference bureau. Why should citizens' organizations be taken into account in studying practical politics? Explain the activities of the voters' league. Of the various leagues of officials. Discuss the National Municipal League. How does a chamber of commerce come to interest itself in local government? What do you know about the Short Ballot Organization? The Civil Service Association? Of similar organizations?

SUBJECTS FOR SPECIAL STUDY

1. "Party Organization and Machinery," by M. Ostrogorski.

2. Corrupt practices acts and the limitation of campaign expenditures.

3. "Short Ballot Principles," by Richard S. Childs.

4. "Government by All the People," by Delos F. Wilcox.

5. "The Wisconsin Idea," by Dr. Charles McCarthy.

6. "Corruption in American Politics and Life," by Robert C. Brooks.

7. Civil Service and the Merit System.

8. "Proportional Representation," by John R. Commons.